

INCREASING COSTS OF ILLEGAL IMMIGRATION

4. AP 6/2: S. HRG. 103-637

HEARING

Increasing Costs of Illegal Immigration... BEFORE THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

Special Hearing

Printed for the use of the Committee on Appropriations



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INCREASING COSTS OF ILLEGAL IMMIGRATION

WEDNESDAY, JUNE 22, 1994

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The committee met at 10:24 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Robert C. Byrd (chairman) presiding.

Present: Senators Byrd, Hollings, Lautenberg, Reid, Feinstein, Hatfield, D'Amato, Domenici, Gramm, and Mack.

NONDEPARTMENTAL WITNESSES

STATEMENT OF HON. PETE WILSON, GOVERNOR OF CALIFORNIA

OPENING STATEMENT OF CHAIRMAN BYRD

Chairman BYRD. The committee will come to order. A letter dated April 20, 1994, was addressed to me by Governors Lawton Chiles, Pete Wilson, Fife Symington, Jim Edgar, and Christine Todd Whitman, the Governors of Florida, California, Arizona, Illinois, and New Jersey, respectively.

The letter requested an opportunity to present their case by these Governors, "for Federal reimbursement for the costs associated with undocumented immigrants and refugees".

The entire letter will be placed in the record without objection. [The information follows:]

LETTER FROM LAWTON CHILES, GOVERNOR, STATE OF FLORIDA; PETE WILSON, GOVERNOR, STATE OF CALIFORNIA; FIFE SYMINGTON, GOVERNOR, STATE OF ARIZONA; JIM EDGAR, GOVERNOR, STATE OF ILLINOIS; AND CHRISTINE TODD WHITMAN, GOVERNOR, STATE OF NEW JERSEY

APRIL 20, 1994.

The Honorable ROBERT C. BYRD,
Chairman, Appropriations Committee, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: In conjunction with the congressional appropriations process, we would like your assistance in setting aside time prior to markup before the full Committee, or in a joint hearing before the relevant subcommittees of jurisdiction, to present our case for federal reimbursement for the costs associated with undocumented immigrants and refugees.

As the Governors of the States most impacted by illegal immigration, we have made a concerted effort to achieve full federal financial responsibility for undocumented immigrants and refugees. Immigration is exclusively a federal responsibility. Yet, current federal immigration policy mandates that the States provide education and emergency health care services for undocumented immigrants. And changes in federal refugee policy and programming fail to address the substantial impact borne by state and local governments.

As a result, taxpayers in our States have been forced to bear a disproportionate share of the costs of a population that is here due to a failed federal policy. In fact,

the entire membership of the National Governors' Association has recognized the need for the federal government to assume the financial responsibility for immigration and refugee policy.

We understand all too well the enormous pressure to devise spending plans in the face of increasingly limited resources. However, this is an issue that is critical to our States, and it needs immediate federal attention. We believe that a hearing dedicated to this subject will be helpful to the members of your Committee in understanding the fiscal strain that federal immigration mandates place on our State budgets.

For these reasons, we urge your assistance in dedicating a hearing before your committee or a joint hearing before the relevant subcommittees so that we can discuss these issues in greater detail.

Thank you for your consideration of this request. We look forward to hearing from you soon.

Sincerely,

LAWTON CHILES,
Governor of Florida.

PETE WILSON,
Governor of California.

FIFE SYMINGTON,
Governor of Arizona.

JIM EDGAR,
Governor of Illinois.

CHRISTINE TODD WHITMAN,
Governor of New Jersey.

PREPARED STATEMENT

Chairman BYRD. The five Governors were invited to attend this hearing. Three, Governor Chiles, Governor Wilson, and Governor Symington accepted the invitation. The other two Governors, the Governor of Illinois and the Governor of New Jersey, declined.

The Governor of Illinois has submitted a written statement. Without objection it will be included in the record.

[The statement follows:]

STATEMENT OF JIM EDGAR, GOVERNOR, STATE OF ILLINOIS

Mr. Chairman, members of the Committee, I am pleased to provide testimony on behalf of the State of Illinois in your deliberations on appropriations with particular concern for undocumented aliens.

At the outset, let it be clear that immigration is vital to the history of Illinois. From its beginning, immigrants have sustained industrial and agricultural growth and they have enriched our communities both culturally and financially through entrepreneurship. Since the 19th century, Illinois has remained among the five states with 75% of the nation's immigrants. Currently, 10.5% of the state's population are foreign born, and more than 20% of Chicago's population are foreign born.

It is important to remember that immigrants provide a cost benefit to the federal government by paying taxes and contributing to local economic development. Study after study confirms that immigrants pay much more in taxes than they receive in benefits. *BusinessWeek* cited a ratio of \$90 to \$5 billion in 1992. However, recent discussions in Congress have frequently failed to distinguish between refugees and other legal immigrants on one hand and undocumented immigrants on the other.

Over the past few years there has been an erosion of federal support for mandated services to refugees and legal immigrants which has in turn steadily transferred costs to states in a time of fiscal stress. Although legal immigrants pay more in federal taxes than they withdraw in benefits, payment for services to them must be borne by state and local governments.

However, today we would like to focus on the need for the federal government to compensate state and local governments for the costs of services provided to undocumented immigrants in particular. We feel these reimbursements are reasonable and appropriate because the costs are a direct result of the federal government's inability to control the flow of undocumented immigrants into our communities. The significant cost transfer laid upon state and local governments to support these persons diverts substantial funds from programs for legal residents.

THE UNDOCUMENTED

Illinois ranks fifth among states in numbers of undocumented. As a result of the Immigration Reform and Control Act of 1986 (IRCA), Illinois legalized 148,172 persons, 5.23% of the national total. According to the Bureau of the Census, Illinois is estimated to have 270,000 or 6.7% of a national total of 4 million persons that remain undocumented.

Although discussion of the costs of the remaining undocumented immigrants after IRCA has been conducted for more than 18 months, a methodology for an estimated number has not been universally accepted. We believe the Immigration and Naturalization Service (INS) estimate of 3 million is unrealistically low and that even the Census estimate of 4 million might be conservative. In order to pursue cost calculations a baseline estimate should be arrived at by the federal government in consultation with the states.

Unquestionably, illegal immigration in substantial numbers continued between January 1, 1982 (the legalization cutoff date) and the passage of IRCA in 1986. Those persons had no warning that the United States would change its policies in an effort to stem the tide. The phenomena probably continued for another two to three years.

The issue is central to Illinois' undocumented population. Unlike California, Texas, and Florida, with special concentrated groups, the remaining undocumented in Illinois are quite diverse. There are substantial numbers of Mexican, as well as South and Central Americans who arrived in the mid-eighties, coming up through Texas. But in addition there are those who came over the Canadian border or who came directly from Asia, Europe, and Africa and over-stayed their visas.

In its recent report, "Setting the Record Straight", the Urban Institute states that "six out of ten undocumented immigrants enter legally - as visitors, students, or temporary employees - and become illegal by failing to leave when their visas expire." (Illinois and perhaps New York are more affected by this phenomena than Texas, Florida, and California.) A case in point is that more than 40,000 foreign students resided in Illinois in 1993.

The over-stay issue is central to our concerns. Those persons entered the country legally, have documents, and are known to INS. INS has been either unwilling or unable to fulfill its responsibilities in seeking the voluntary departure or enforcing the deportation of the over-stayers.

Congress has not provided adequate resources to patrol the borders, to process asylum applications, to pursue deportation, or, in a more positive vein, to promote citizenship of legal immigrants. One result has been the increased accumulation of undocumented persons for whom a range of services is mandated. The costs are born by state and local government, although clearly they should be the responsibility of the federal government.

COSTS OF INCARCERATION

Illinois has participated in recent months in an effort by the Urban Institute under contract to the Office of Management and Budget to establish a methodology for reimbursing states for the cost of services to the undocumented. We applaud the effort and look forward to the report and its recommendations which are scheduled for release in mid-July. We certainly anticipate a judicious consideration of the added burden states have been incurring.

Of immediate concern is the concrete proposal before you to appropriate \$350 million to reimburse states for the costs of incarceration. The costs of incarceration were clearly authorized by IRCA (P.L. 99-603), 8 USC § 1365:

- (a) Subject to the amounts provided in advance in appropriation Acts the Attorney General shall reimburse a State for costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such state.

- (d) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

The federal government has not moved to implement that authorization. Further, Appropriations Bill P.L. 103-121 provided the Department of Justice more than \$1 billion for FY'94 with reference to 8 USC § 1365(a). In 1990, P.L. 101-649, 8 USC § 1330(b) provided an increase in various civil fines and forfeitures for violations of immigration laws to support activities including the identification, investigation, and apprehension of criminal aliens. The federal government has not implemented those provisions.

Within this context we urge the Committee to move beyond promise to actual mandated appropriation.

Illinois estimates costs of \$43.6 million incurred in 1993 for undocumented aliens. This estimate does not include capital development costs for prison facilities, the costs of investigation and adjudication, nor the costs borne by county or city jurisdictions. Because there have been no federal directives for discovery or reporting of undocumented aliens, Illinois has limited actual data. As of December, 1993, 434 undocumented aliens were incarcerated pending deportation hearings, at an annualized cost of \$6.8 million.

In addition to those costs, Illinois employed a population ratio methodology as approved by the Department of Health and Human Services (DHHS) in administering the State Legalization Impact Assistance Grant (SLIAG) program. Assuming that the current undocumented population is demographically similar to that legalized under IRCA, 147,757 or 82% are 18-44 years of age. Assuming that this group is incarcerated at the same rate as the entire population, 6.03% of the prison population would be undocumented aliens. The cost estimate is \$36.8 million for 2,345 undocumented alien felons.

COSTS OF MEDICAL ASSISTANCE

Again using a population ratio methodology, Illinois estimates a cost of \$48 million for Emergency Medical Assistance for approximately 12,000 undocumented aliens. The assumption is that undocumented aliens are 82.22% greater in number than the Legalized Aliens. If they used Emergency Medical Assistance at the same rate as the Legalized Aliens, the cost would be $1.8288 \times \$26.3$ million (the FY'92 cost for Legalized Aliens) or \$48 million.

COSTS OF EDUCATION

Based on the Legalized Alien population, it is assumed that 6.23% or 16,821 of the undocumented aliens are K-12 students. Further, it is assumed that 78% of the undocumented reside in Cook County.

The Operating Expense per pupil was \$4,926.25 outside Cook and \$6,375.44 within Cook in 1992 - the last year for which data is currently available. Accordingly, a total of \$101.9 million was spent on the children of undocumented aliens.

Of the total, \$29.2 million was state cost, and \$66.2 million was local cost, or \$95.4 million in non-federal costs.

CONCLUSION

In addition to the estimated costs above which total \$187 million, we estimate \$5.7 million for public health and \$3 million for adult education for a grand total of \$195.7 million expended on undocumented aliens. The service population has resulted from the inability of the federal government to curtail undocumented immigration and the costs should be born at the federal level.

We have no illusion that full and equitable reimbursement will be forthcoming at a time that we seek new dollars for Health Care Reform and Welfare Reform. However, we do urge Congress to establish a precedent with an eye toward the future and set forth an initiative to relieve states, like Illinois, disproportionately impacted by immigration. We do ask for a serious commitment and fair-minded appropriation.

In closing, I must add that my administration is opposed to eliminating Medicaid, SSI, AFDC, or other benefits to legal non-citizens. Fiscally, those efforts would result in still greater cost transfer to state and local government, and disruption of service to those in need. We believe that those negative results would far outweigh the estimated savings that have been proposed. We do not believe it is good government to provide services to one group in need by denying services to another group in need.

Moreover, immigrants pay far more in taxes than they withdraw in benefits. How then can we in good conscience collect the taxes and deny the benefits? We urge the Committee to seek constructive solutions and to provide appropriate support to the states in their efforts to promote the economic self-sufficiency and social self-reliance of immigrants as well as assist those in need.

PREPARED STATEMENT OF GOV. MARIO CUOMO

Chairman BYRD. I have just been advised that Governor Mario Cuomo would like to submit a statement for the record, and without objection it will be included in the record.

[The statement follows:]

STATEMENT OF GOV. MARIO M. CUOMO

Mr. Chairman and Committee Members: I would like to express my appreciation to you and the members of the Senate Appropriations Committee for holding today's hearings and for permitting me to submit this statement.

For too long, the federal government has unfairly shifted the costs associated with undocumented immigration to state and local governments. I hope that today's discussion is a starting point in developing long-term federal solutions for these federal responsibilities. The Administration has shown a willingness to address the states' concerns, but effective assistance requires your help; adequate appropriations are necessary.

I do not join those who call for an end to all immigration or for a blanket repeal of federal mandates. New York's economy is fueled by new immigrants. Reports from the U.S. Department of Labor indicate that immigrants neither take jobs from nor depress the wages of native-born workers. In fact, they create jobs for our workers by opening businesses, investing in companies, and becoming consumers of goods and services produced by Americans. They also pay taxes and defend our nation in the armed forces. In addition, immigrants are often responsible for revitalizing many decaying and dying neighborhoods throughout our nation.

However, because of cost shifting during the 1980s, we can no longer afford to pay such a large share of the costs of undocumented immigration. Some believe that undocumented immigration is becoming a national crisis. The ugly undertones of the debate on undocumented immigrants require that you consider the matter thoughtfully, it deserves your highest level and priority of attention.

The federal government alone is responsible for maintaining the integrity of U.S. borders and preventing undocumented immigrants from entering the country or remaining here. Yet, for years, it has failed to take responsibility for the costs imposed on state and local governments as a result of its failure to enforce U.S. immigration laws.

As you may know, I am committed to requiring the federal government to shoulder this responsibility by aggressively pursuing negotiations with the Administration, as well as advocating for Congress to appropriate funding concomitant with its responsibilities.

As the Governor of a state that has a disproportionate number of undocumented immigrants, I implore you to provide state and local governments with impact assistance. The states should receive federal reimbursement for the costs of services they must provide including education, emergency and prenatal care for undocumented aliens, along with the costs of incarceration of undocumented criminal felons.

The Clinton Administration is the first administration to address systematically the fiscal difficulties posed to states by undocumented immigration and I applaud the efforts of President Clinton, Attorney General Janet Reno and I.N.S. Commissioner Doris Meissner. During the Reagan and Bush presidencies, the federal government passed more and more of its costs and responsibilities to the states, requiring the states to absorb the local financial impact of national problems, such as undocumented immigration. However, the Clinton Administration has shown a willingness to work more closely with the states to review the fiscal effects of undocumented immigration and explore opportunities in Congress for assistance to states to help meet these ever-increasing expenses.

For example, the President's FY 1995 budget request establishes a \$350 million State Criminal Alien Assistance Program (SCAAP) to reimburse states for the costs of incarcerating undocumented criminals. Although this program was authorized by Congress as part of the Immigration Reform and Control Act of 1986, prior administrations have failed to address the long-standing problem that states face with growing costs of incarcerating undocumented felons. We sorely need such assistance at a time when we are facing unprecedented challenges posed by the rapid rise in our criminal alien populations.

New York, for example, is now housing an estimated 2,700 individuals who entered the U.S. illegally and then committed a felony for which they were convicted and incarcerated. Because it costs an average of \$24,600 a year to house an inmate, New York is paying approximately \$66 million annually in incarceration costs, not including the related costs of added prison construction and an overburdened judicial system.

If funded at the level requested in the President's FY 95 budget request, SCAAP will represent an important first step towards easing the financial burdens placed on states by undocumented criminals. I urge you and the other members of this Committee to work with your counterparts on the House Appropriations Committee to assure that Congress makes adequate funding available for this important program.

The Clinton Administration has also offered a five-point plan to reduce undocumented immigration into the United States, as well as the numbers of those already in the U.S., but, again, it cannot act without adequate appropriations from Congress.

Of special interest to New York is the President's FY 95 budget request for \$64 million to implement the Department of Justice's pledge to reform the political asylum system. This is important to my state because the population of undocumented immigrants in New York is made up largely of those persons who enter the country legally and violate the terms of their visas, or those who pursue frivolous asylum claims, in an effort to delay deportation.

As the world's mightiest democracy, we must never forget that the underlying purpose of granting asylum is to provide refuge to persons fleeing persecution. America's longstanding policy of providing a safe haven to those people who have a well-founded fear of returning to their homeland is an important tradition that should never be compromised.

However, with a backlog of 370,000 pending asylum cases, the present system serves neither the interests of true refugees nor the integrity of U.S. immigration laws. Some asylum applicants now may wait for three-and-one-half years for their cases to be resolved. Because New York is constitutionally obligated to care for the needy -- regardless of their citizenship status -- the State bears the responsibility and financial obligation for providing certain assistance during this period if they have no job and otherwise no means of support.

Under the Administration's \$64 million asylum initiative, a new state of the art asylum office - with 91 INS employees - is scheduled to open in Rosedale, New York to process promptly 3,000 applications currently filed monthly in the New York area. The location of the office was selected because of its proximity to JFK International Airport. This new office will not only adjudicate promptly asylum claims, but also affect significantly

the existing backlog of cases waiting to be resolved, enabling New York State and its localities to avoid substantial costs.

Another example of the Administration's efforts to cooperate with states is the Department of Justice's pilot Institutional Hearing Program in New York State. Since it began in April, this pilot program has expedited the deportation process for undocumented felons incarcerated in New York correctional facilities. In fact, the INS issued 180 orders of deportation in the eight weeks that the program has been running, versus 270 for the entire year of 1993.

I know that Attorney General Reno is anxious to share New York's successful experiences with the IHP program with other similarly affected states.

Last, the Office of Management and Budget is working with New York, along with other affected states, to determine reliable methodologies for estimating costs relating to undocumented immigrants. Hopefully, this cooperative effort will lead to the inclusion of meaningful fiscal relief for affected states in the President's FY 1996 budget recommendations.

These are all positive signs, and, taken together, they signal the beginning of a new federal partnership with the states to improve programs serving immigrants and to provide fiscal relief to states disproportionately affected by undocumented immigration.

Ultimately, however, the Congress must become an active participant in this new alliance if we are able to make meaningful progress to correct the inequitable cost-shifting of the past. It is in the best interests of the nation to address undocumented immigrations issues thoughtfully, forcefully, and

rapidly. I hope that today's hearing signals your willingness to explore funding and policy options to reduce the unfair cost-shifting posed by undocumented immigration.

Over the next several months, I look forward to working with the Clinton Administration and the Congress to restore the balance of responsibilities between the federal government and the states.

Thank you, again, for holding these important hearings.

Chairman BYRD. It would be my suggestion that we hear the Governors before any questions are asked, following the statement by me. And if my ranking member, Mr. Hatfield, wishes to submit a statement he may do so, likewise. Then we will call on the Governors for their statements.

We will begin with Governor Wilson, he being in the center, and then we will go to Governor Chiles. First Wilson, and then Chiles, and then Governor Symington, after which Senators will ask questions.

I propose that we have 10 minutes for each question, which is not nearly enough, and that we take the questions in the order of attendance here at the committee this morning.

Our hearing today explores the increasing costs and other problems associated with the exploding numbers of illegal immigrants taking residence in our Nation. This hearing has been stimulated in great part by the concerns expressed by five State Governors from California, Florida, Arizona, New Jersey, and Illinois, whose States bear by far the disproportionate burden of this new wave of immigration.

The committee invited, as I have already stated, all five Governors to testify. Three accepted and are testifying today.

So, I greet our panel today. This will be the first panel, and it will testify during the morning. And during the afternoon another panel will appear.

So, I first welcome Governor Lawton Chiles of Florida, who sat as chairman of the Budget Committee in the Senate, and who also sat as a member of this Appropriations Committee while he served in the Senate, and who knows very well the kind of pressures that our discretionary spending accounts have been subjected to in recent years.

I am confident that he, more than most, fully appreciates the problems confronting us in funding expanded or new programs in an era when we are looking forward to an upcoming 5-year budget cycle in which our domestic accounts will shrink in real dollar terms.

I also am pleased to greet another former Member of the Senate, Governor Pete Wilson of California, who has been outspoken on the

costs and pressures confronting California resulting from the incoming tide of illegal settlers in California.

You may have noted Governor Wilson's op-ed piece today in the Washington Times, and as I read it, it struck me as being pretty much the same testimony as he is delivering before this committee this morning.

California absorbs more of these immigrants than does any other State. Together, Governors Chiles and Wilson must deal with close to one-half of all the some 4 million illegal immigrants estimated to be in the United States as of this month.

And we welcome Governor Fife Symington of Arizona who, although not having been a member of this body, represents a border State that shares to some degree with California, New Mexico, and Texas the problems and pressures of illegal immigration along our Southwestern border.

I emphasize that today's hearing is truly exploratory. We do not have all the answers, nor do we have sufficiently precise understanding, perhaps, of the scope of the problem. There is a range of estimates on the data, the numbers, the specific distribution of illegal immigrants, and the specific costs to the Nation and to the respective States involved.

And without precise and specific data, of course, it is impossible to gage either the appropriate remedies for or the costs of the problem. We are trying to get a better understanding of this data base, and so after our initial panel we will have the best experts at the Federal level this afternoon, from both the Population Division of the Bureau of the Census and the Immigration and Naturalization Service who will testify.

While we wrestle with the data issue, however, it is certainly clear that we are faced with a problem of major dimensions and it is a growing problem. We are experiencing the largest wave of immigrants in our Nation's history. The first major immigration began in the late 1840's and peaked in the 1880's, a decade when over 5 million immigrants came to this country. The next wave peaked in the first decade of this century, when 9 million immigrants entered the Nation. In the 1980's, immigration reached almost 10 million.

We are not here today to consider reform of our overall immigration policy in any depth whatsoever, because this is not a committee which has jurisdiction over such authorizing legislation. It is not clear that we have a coherent national policy on immigration. I think reform is needed but this is not the committee to legislate such reform.

Congress has enacted major legislation three times in the last 15 years to deal with the problem of both legal and illegal immigration with varying success, and the full range of our problems has not been satisfactorily addressed.

What we are concerned with here today is the scope of illegal immigration. The magnitude of this problem, while not clear, is alarming. Illegal immigrants comprising both those who overstay their visa's and those who enter the country without documentation and are illegal from the moment they arrive, amount to some 200,000 to 300,000 persons per year.

Our bureaucratic mechanisms for dealing with the magnitude of the problem are clearly inadequate. We are choked with a backlog of some 350,000 requests for asylum, for instance, most of which requests we know will be denied. But still we allow these individuals to take up residence and to work for years before we get to their cases.

We do not have adequate mechanisms in preinspection centers abroad to turn back those who intend to enter the country fraudulently. The levels and time-consuming nature of the appeals process for those who drag out that process in order to stay encourage illegal immigration.

In short, for years we have not been tough enough on illegal immigration of all types. The problem became so acute by the mid-1980's that our solution was to enact legislation to grant amnesty to the massive pool of illegal immigrants in residence. That is, we threw up our hands and threw in the towel.

What is the effect of this lax system? First, it encourages more individuals to try their luck on getting here and staying illegally. Second, it must have a discouraging effect on those individuals who are trying to get here the right way through the legal application process, which is often time consuming and difficult.

Third, if whole immigrant communities in the United States are here by flouting the law, what will be their long-term attitude toward compliance with the laws in general in this country?

Fourth, it stimulates hostility toward immigrants in general on the part of the American people and undermines support for our legal immigrants. This is a Nation based on laws and not men, and that adage must have new life breathed into it in this vexing area.

So, there is a range of problems that must be addressed, and while additional resources will be needed in various areas, we are not going to solve the illegal immigration problem by throwing money at it even if we had the money to throw. More money is not the magic answer.

First and foremost, there has to be an agreement at all levels of government that this is a top priority and a corresponding commitment to better enforce the law.

Second, we are all going to have to work together in a much more cooperative fashion, sharing information and resources if we are to be successful.

It is my belief that our laws need some changing in order to shorten the laborious appeals process currently afforded to individuals who really do not deserve the benefit of such a process because they are here illegally.

First, more summary judgments, summary deportations, summary exclusion powers are needed. Second, we have got to make our Federal agencies, particularly the Immigration and Naturalization Service, more effective. Federal agencies need to cooperate more effectively with each other using the most modern tools of technology and technical capability.

Furthermore, better coordination must be developed between Federal and State agencies. It is not at all clear that there is an appropriately vigorous effort and commitment on the part of all the people who administer the law at both the Federal and State level.

It is easy to sympathize with the plight of recently arrived immigrants. That is a normal human reaction. Nevertheless, the absorptive capacity of those regions where the immigrants are concentrated is being seriously strained, and so is the fabric of the Nation as a whole.

We must reorder our priorities and put our fundamental national interests at the top of the list for all of the layers of government which deal with illegal immigration.

I hope that our goal here today is to take the emotionalism out of the problem to the extent that we can, and that is pretty difficult, I know; to more specifically identify the scope of the problem of illegal immigration; to get a better understanding of the data; and possibly to identify—possibly to identify legislative and bureaucratic measures that should be considered in order to get a better grip on the immigration problem.

I will close by thanking our three distinguished witnesses for their time and the effort that they have put forth to be here with us this morning, and I look forward to their testimony after I call upon my colleague, Senator Hatfield, the ranking member of the Committee.

Senator HATFIELD. Thank you, Mr. Chairman. First, Mr. Chairman, I would like to commend you for calling this session on this subject because I think it concerns all Americans, not just those of us in the field of Government.

Second, I would like to welcome our very able and track record proven leadership of three Governors. I think Governors at the State level have probably a greater understanding of these problems, being on the firing line as they are.

PREPARED STATEMENT

Third, I would like to submit an opening statement some time later for the record, and I would like to get on with the testimony of these distinguished men.

[The statement follows:]

STATEMENT OF SENATOR MARK O. HATFIELD

Mr. Chairman: I would like to take this opportunity to thank Governors Wilson, Chiles and Symington for appearing before the Committee today. All three of you have proven your ability to meet tough issues head on and I look forward to hearing your testimony on this important issue of illegal immigration and its cost to your states. I would also like to thank Chairman Byrd for calling today's hearing. Although we are not the authorizing committee that has jurisdiction over immigration policy and programs, our committee plays an important role in allocating much needed funding to assist states who are affected by federal immigration policy.

According to estimates prepared by the Immigration and Naturalization Service (INS), about 300,000 illegal immigrants enter the United States each year. INS calculates that the total population of illegal immigrants in the United States is about 3.8 million. About half of these 3.8 million aliens entered the United States illegally across land borders. Furthermore, INS statistics indicate that eighty-five percent of all unauthorized immigrants live in six States—California, New York, Texas, Florida, Illinois, and New Jersey. Increasingly, these states are facing great demands on their budgets due to these unauthorized immigrants. This had led several states, including the three represented here today, to file suit in federal court to force the federal government to reimburse them for the costs to states which result from illegal immigration.

In his fiscal year 1995 budget, the President has proposed a new immigration enforcement initiative to reduce the flow of illegal immigrants into the United States. The President's \$2.1 billion budget request to fund the programs of the Immigration

and Naturalization Service includes \$368 million of new funds targeted toward illegal immigration. These funds will be used to increase the border patrol and the deportation of criminal aliens. For the first time, the President's budget includes \$350 million to help states pay for the cost of incarcerating illegal immigrants who have been convicted of felonies. Funding increases have also been requested for Title I education costs, adult education and bilingual education. These funds may not be enough to fully offset the cost of illegal immigration to the states, but they will certainly provide some assistance from the federal government to help cover the cost associated with the influx of illegal immigrants.

Mr. Chairman, while I applaud the President for his proposed immigration initiative, I believe we must also find new ways to address the problems of illegal immigration. I am among the first to admit that we simply cannot afford to absorb an unregulated flow of immigrants into our country. However, I am concerned by the shortsighted approach that is taken to address this problem. Sometimes we find ourselves so caught up in the crises of the day that we forget to look at the root causes of problems. In the case of illegal immigration, I think we have fallen into this trap.

Let me explain further. We can continue to increase our border patrol and our enforcement activities in the United States. We can build a wall around our country stretching along the U.S.-Mexico border and the U.S.-Canada border. While this may make it more difficult for illegal immigrants to cross, I do not believe these measures will solve the problem of illegal immigration. In addition, some have argued that we should cut off all government assistance to illegal immigrants. These people argue that we encourage illegal immigration through our generous welfare program, emergency medical benefits and other programs. I think we must look beyond these so-called magnets to the reasons why people leave their countries. Instead, we should focus on creating opportunities for people within their own countries so they aren't compelled to leave in search of better opportunities to support their families. I believe the North American Free Trade Agreement is a start to achieving this long term goal.

In the meantime, the federal government must look for ways to assist the states who are struggling to cope with the consequences of illegal immigration. I am looking forward to the testimony at today's hearing as we search for ways to meet these demands. The latest debate over illegal immigration is just beginning. It is my hope that the federal government can come together as partners with the states and come up with creative solutions to addressing the complex issues and problems raised by illegal immigration.

Thank you Mr. Chairman.

Chairman BYRD. Governor Wilson, I call upon you first.

Governor WILSON. Thank you very much, Mr. Chairman. Mr. Chairman, Senator Hatfield, distinguished members of the committee, I am sure I speak for my colleagues and also for those who could not accept your invitation this morning in applauding you for taking the time and the effort to explore this subject, and to help find realistic solutions to this crisis.

Let me congratulate you, Mr. Chairman, on what I thought to be a superb statement, one that defines the problem very, very clearly.

As you have pointed out, California has more of the problems than any other State, but you will note that I am not here alone and there is a growing number of States who are complaining.

Perhaps we can put this in perspective best in a graphic way. I have, with the assistance of your staff, erected some charts here, these blue charts that tell the story in a considerable degree of detail.

The first chart, on your left as you are facing the charts, deals with the increasing costs of California's having to incarcerate those who have entered the country illegally and have then been convicted of a felony under State law. You will see that in the period from 1988 to the present time, or actually to 1993, there has been a 200-percent increase in cost, and a more than tripling of the actual inmate population.

The next chart, the chart in the center, has to do with the skyrocketing medical care costs of providing emergency health care to illegal immigrants under the provisions of OBRA '86, and there you can see even more startling growth. There has been literally a 1,000-percent increase; a ten-fold increase in the caseload in that same period of time, and a more than 1,700 percent increase in cost.

The chart on the right records the increase in the costs of providing education, K-12 education. In the period from 1988 to 1993 there has been a better than 30 percent increase in the student population to be accommodated, and a 43-percent increase in the costs of doing so.

Mr. Chairman, no State is immune from this crisis. You have pointed out well that it is beginning to spill over. But in my State what it amounts to is that two-thirds of all the children born in the public hospitals of Los Angeles County are born to parents who have entered the country illegally. Forty percent of all the births statewide under the MediCal system are by parents who have entered the country illegally.

The cost of providing these services is mandated by Federal law, but in large measure they are financed by State taxpayers, and those costs are exploding.

I think everyone agrees that these costs, by fairness and by the constitutional assignment of jurisdiction to the Federal Government are really exclusively a Federal responsibility.

President Clinton himself has been most articulate on the subject. He has spoken of a Federal failure to control the border, and a failure of Federal policy. He has used the phrase that the border leaks like a sieve. He has, in fact, indicated that he thinks that there is gross unfairness in having the States suffer the burdens and the costs of the Federal failure that he has described.

So in his mind the question is not whether or not there is a Federal responsibility. The question is not really a dispute on the equities. The question really is when the Federal Government will accept its responsibility, as you have indicated in your statement, Mr. Chairman, that it must, and how will they act to solve this crisis. Let me with all respect say to you that it is imperative that we see action this year.

California spends more than \$3 billion per year on services for illegal immigrants and their families in response to Federal mandates. That is now approaching nearly 10 percent of the State's entire general fund budget. It amounts to a tax burden of some \$400 per year for a family of four on average. And the cost of paying these bills is now forcing us to deny services to California's own legal residents who are in need of them.

We are now confronting in our budget the necessity to do the following things: to end dental services for 800,000 welfare mothers and elderly poor; to reduce drug treatment and outreach for some 3,200 drug-exposed pregnant women; to reduce funding increases for California's 29 public universities. In fact, our system has become so twisted that we now have a very bitter irony. This is not a riddle, it is a real life dilemma. This scenario is real. Two women, pregnant, in need of maternity care, and for the sake of argument,

as is so often true we will make them both Latinos, both of Hispanic descent. Both come for that care.

One woman will get that care, one who is a working poor legal resident will not. The one who will get the care, the illegal immigrant, cannot legally work in the United States, but by Federal law she is guaranteed maternity care. The working poor mother, too poor to have her own coverage, not poor enough to qualify for Medi-Cal, cannot get the coverage. Not because there is not a program. I asked the legislature to create a program specifically for working poor mothers, for legal residents. They did so, but because of the fact that now almost 10 percent of our general fund is allocated to payment of services for illegal immigrants we had to on February 1 cap enrollment in that program to provide prenatal care to working poor legal residents, a program that we call AIM—access for infants and mothers.

That is not just bitter irony, it is terribly and intolerably unfair. But it is what happens when we are forced by Federal mandates to pay for services to illegal immigrants that we can no longer afford to provide to our own legal residents. And that, Mr. Chairman and members, is why we really must have reform this year. It is to avoid these deeper cuts and further hardship and unfairness to needy legal residents.

Let me suggest that the Federal Government really must do two things to prevent that hardship. It must secure our borders, and it must pay the bill for illegal immigration. Now, I am mindful of the admonition given by the Chair, and he is quite right. Not only Senator, now Governor, Lawton Chiles is aware of the difficulty of that, but by virtue of my privilege of 8 years' service in this body, I am aware that it is never easy to make the ends meet and to resolve all the competing claims.

But the alternative for Federal failure to provide the needed reimbursement to the hard-pressed States is to simply see that we will continue that kind of hardship, because, of course, the States get no discount. We are paying full cost in providing for the education, the health care, and the incarceration of illegal immigrants. And I might say that the costs to us from doing so are real, they are growing, and, of course, we are doing that from budgets that represent but a tiny fraction of the \$1.5 trillion Federal budget.

Indeed, because of the hardships that we have faced, Californians in this recession have already made far deeper spending cuts than I believe the Federal Government will ever have to make. In the past 3 years, while Federal spending has grown by nearly 10 percent, California's general fund budget has been cut by more than 10 percent. So as difficult as it is for the administration and Congress to find the funds to make full reimbursement to the States, it is far, far more difficult and will impose greater hardship upon the people of my State and other States if, in fact, that reimbursement is not made.

Full reimbursement I think also underscores the effectiveness or the importance of effective border control, the importance of preventing people from entering the country illegally in the first place. Preventing their entry is far more cost effective, and incidentally far more humane, than what is happening today. It is impossible, I think, not to sympathize and to empathize with the illegal immi-

grants or even to admire their gumption in seeking to come to a better life, to bring their families to a better life. And while they intend no harm, the fact is, as the chairman pointed out in his statement, their increasing numbers do threaten jobs for legal residents, and because of their impact upon State budgets, they threaten the quality and the availability of State services to needy legal residents. Our immigration crisis demands action. It demands it urgently.

In your invitation, Mr. Chairman, you asked for specific proposals for border control. This is what I respectfully would propose: First, to help finance additional Border Patrol agents we should enact Senator Feinstein's border crossing fee. I would actually prefer to see something that falls more equitably upon the entire population. The fee, as she and I both know, will probably have a heavier impact on Californians, but she has proposed something that enjoys bipartisan support, something that I would hope could be enacted quickly, something that is clearly necessary. It will provide substantial additional resources, some \$300 million a year, as I understand it, for increased border enforcement.

Second, we should encourage the Border Patrol to take advantage of the skills offered by military personnel looking for new careers because of the Defense Department's downsizing.

Finally, if current training facilities, if the capacity to train and field additional needed Border Patrol agents, is inadequate to train them as quickly as they are needed, then we really need to expand that capacity. Commissioner Doris Meissner's plan has her sending just 40 new Border Patrol agents a month to the San Diego sector. At that rate it will be years before we have a fully staffed Border Patrol.

One-half of the illegal immigrants entering the country are doing so through a 15-mile stretch of border from the Pacific border to Ojai Mesa. And yet, there are more law enforcement personnel guarding this Capitol, this building, the National Capitol, than there are on that border. With existing resources, the Border Patrol faces mission impossible. They are hopelessly understaffed. And asking them to do the job that we are asking of them is like having one cop walk a beat four times the size of New York City's Central Park. To help the Federal Government train and deploy Border Patrol agents more quickly, today I am sending a letter to Commissioner Meisner and to President Clinton offering a State facility in California as a second Border Patrol training facility.

The bottom line is simply that it is time, as you suggested in your statement, Mr. Chairman, to regain control of the Nation's borders and to restore integrity and fairness to our Nation's immigration laws. In your statement, you questioned whether we have a coherent policy, and rightly so. I would suggest that we have a series of anomalies, a basic premise that says that you may enter the country only legally, but that we then undermine it by continuing to provide incentives and actually rewards for those who evade the Border Patrol.

Indeed, there are some Members of Congress who may agree that illegal immigration is a serious problem for Los Angeles, for Phoenix, for Miami, but ask why their constituents in Minneapolis or Muncie or Montgomery should share the cost of illegal immigra-

tion. The most obvious answer is that it is the right thing to do. It really, I think, is a moral and a legal obligation. It is also true that increasingly those States not heavily impacted directly are sharing as Federal taxpayers in those costs. They pay when their tax dollars are spent to keep illegal immigrants in Federal prison or when they are spent on Medicaid for illegals or when they are spent to finance welfare payments for citizen children of illegal immigrants.

Although the problem is most acute in the States represented here today and in four more, the problem is growing across the Nation. It is why there is an official National Governors' Association policy that Federal reimbursement be paid to the States for as long as we are forced to bear the burden of illegal immigration.

There will be some Members of Congress who say it is wrong to spend any tax dollars, either State or Federal, to subsidize illegal immigration. They will say that we should instead be turning off the magnetic lure of guaranteed benefits that today reward people who break the law and successfully evade the Border Patrol. Well, that is, in fact, my own view, but until a majority in Congress can make that the law there must be full Federal reimbursement. The only way to solve that problem is to face up to it, and either we confront it squarely now or the problem will simply grow rapidly worse and become more difficult to solve next year.

The charts, I think, tell the story, and an eighteenfold increase in just 5 years indicates an incredible potential for growth. I suggest that if the problem has not yet spilled into your State, it very soon will.

So, Mr. Chairman, on behalf of my constituents I thank you for the opportunity to be heard. We do ask your support in fixing the problem. This is not the policy committee, but, of course, Appropriations do very much determine policy. We feel, and we implore you to recognize, that Washington must secure the border without further excuse or delay, and either by repeal of those mandated services or by full reimbursement for their cost prevent further hardship and further unfairness, both to State taxpayers and to needy legal residents. The time has come to end illegal immigration as we know it.

And I have put some charts up, Mr. Chairman. The one on the far left, I think, indicates the difference in recent experience between California and Federal efforts to curtail spending. The yellow line shows what we have had to do.

The center chart simply is a summary of why illegal immigration is critical to Californians. It records the annual growth of 100,000 illegal immigrants to our population as recorded by the census. It shows that it is costing us some \$3.2 billion—again, that is nearly 10 percent of our general fund—to provide services mandated by Federal law. To pay those taxes, those State taxes, requires the equivalent of 750,000 new jobs to be created, just to pay those federally mandated immigration costs.

The final chart indicates again the services that we are faced with reducing because we are simply no longer able to provide them, given the costs imposed by Federal law of providing services for illegal immigrants: the end of dental services for welfare mothers and the elderly poor, the reduction of drug treatment for preg-

nant women, the cutting of funding increases for our universities, and a cap on the enrollment for the kind of maternity care that we do provide to illegal immigrants but are no longer able to provide to our own working poor legal residents.

Thank you very much, Mr. Chairman.

PREPARED STATEMENT

Chairman BYRD. Thank you, Governor Wilson. Without objection, your entire prepared statement will also be included in the record.
[The statement follows:]

STATEMENT OF GOV. PETE WILSON

Good morning. I'd like to thank this committee and Chairman Byrd, in particular, for holding this hearing and showing leadership on an important issue -- the crisis of illegal immigration.

I applaud you for taking the time to learn about and help find realistic solutions to this crisis.

No state is immune from the crisis of illegal immigration, but certainly no state feels the effect of the federal government's failure to control the border more than California.

California is home to more than half of the nation's illegal immigrants.

In Los Angeles alone, illegal immigrants and their children total a million people. That's enough people to fill a city one-and-a-half times the size of Washington, D.C.

And the cost of providing these individuals government services -- services mandated by federal law but financed by state taxpayers -- is exploding.

Let me give you an idea of the magnitude of the problem and how it is growing, as illustrated on these charts:

*** Just since 1988, the costs of providing medical care to illegal immigrants in California has grown 18-fold.

*** The number of illegal immigrant felons behind bars in California has tripled during that same period and could now fill 8 state prisons to design capacity.

*** And next year, our schools will have to spend \$1.7 billion providing education to people who are in our country illegally.

Everyone agrees that these are costs that by fairness and by law should be paid by the federal government. After all, the Constitution makes it clear that immigration is strictly a federal responsibility. As President Clinton himself has said, these costs are the result of a "failure of federal policy."

So, the question isn't whether or not this is a federal responsibility. There's no dispute there. The only questions is: When will the federal government accept its responsibility and act to solve this crisis?

Let me tell you why it's imperative that we see action this year.

California spends more than \$3 billion for services for illegal immigrants and their families. That's nearly 10 percent of our state's General Fund budget or almost \$400 a year for a family of four.

And the cost of paying to these bills is now forcing us to cut services for California's legal residents. Just this year, we'll be forced to:

*** End dental services for 800,000 welfare mothers and elderly poor;

*** Reduce drug treatment and outreach for 3,200 drug-exposed pregnant women; and,

*** Reduce funding increases for California's 29 public universities.

In fact, our system has become so twisted that we now have illegal immigrants being guaranteed services by federal mandate that our poor legal residents can't afford themselves and that our state can't afford to provide them because of the federally imposed state spending on illegal immigrants.

Consider this scenario: Two women are pregnant in California. Let's say they're both of Hispanic descent and both are poor. They both need maternity care but can't afford it on their own.

One woman will get care. One will not.

The one who gets care is an illegal immigrant. She can't legally work in our country, but by federal law she's guaranteed maternity care.

The woman who doesn't get care is the legal resident. She's working at a low-wage job, but is too poor to purchase her own health care coverage. And California can't afford to provide her that care. On February 1, we were forced to cap enrollment in our innovative program that provides maternity care for California's working poor legal residents, known as Access for Infants and Mothers, or AIM, because of the costs we bear for illegal immigrants.

So an individual who is in our country illegally will get the care, but a legal resident -- in equal need -- will not.

That's not just bitter irony; it is terribly, intolerably unfair. But it's what happens when the federal government forces us to pay for services to illegal immigrants that we can't afford to provide to our own legal residents.

That's why we must have reform this year: To avoid deeper cuts and further hardship and unfairness to needy legal residents.

To prevent that hardship, the federal government must do two things: It must secure our borders, and it must pay the bill for illegal immigration.

I know that paying these bills won't be easy. But the alternative is making the hard-pressed states pay for what is an exclusively federal responsibility. And I assure you, we get no discount in providing these services from budgets that are a tiny fraction of the trillion and a half dollar federal budget.

Because of the hardships we've faced, Californians have already made far deeper spending cuts than the federal government will ever have to make.

Consider this: In the past three years, federal spending has grown by nearly 10 percent, while California's General Fund budget has been reduced by more than 10 percent.

As difficult as it is for the Administration and Congress to find the funds to make full reimbursement to the states, it will be far tougher -- and impose greater hardship on the people of California -- if you don't.

Full reimbursement will also underscore the importance of effective border control. And preventing people from entering the country in the first place is far more cost-effective and more humane than what's happening today.

It's impossible not to sympathize with their effort to seek a better life. I admire their gumption. But while they intend no harm, their numbers threaten jobs for legal residents, and -- because of their impact on state budgets -- they threaten the quality and availability of state services to needy legal residents.

Our immigration crisis demands action, and it demands it this year.

In your invitation to testify at this hearing, Senator Byrd, you asked for specific proposals for border control. This is what I would propose:

First, to help finance additional Border Patrol agents, we should enact Senator Feinstein's border crossing fee. This plan enjoys bipartisan support; it can be enacted quickly; and, it will provide substantial additional resources -- \$300 million a year -- for border enforcement.

Second, we should encourage the Border Patrol to take advantage of the skills offered by military personnel looking for new careers because of defense down-sizing. With their military experience, these men and women can be trained for the Border Patrol in half the time of a typical recruit. And there are thousands of these individuals looking for work in California.

Finally, if the current training facilities are inadequate to train the personnel as quickly as they're needed, we must find new facilities.

INS Commissioner Doris Meissner's plan has her sending just 40 new Border Patrol agents a month to the San Diego sector. At that rate, it will be years before we have a fully staffed Border Patrol.

Half of all the illegal immigrants entering the country come through that 15-mile stretch of the border from the Pacific Ocean to Otay Mesa. And yet, there are more law enforcement personnel guarding this building we're in than there are on that border.

With existing resources, the border patrol faces Mission Impossible. It's the equivalent of having one cop walk a beat 4 times the size of New York City's Central Park.

So to help the federal government train and deploy Border Patrol agents more quickly, today I'm sending a letter to Commissioner Meissner and President Clinton offering a state facility in California as a second Border Patrol training facility.

The bottom line is, it's time to regain control of our nation's borders and restore integrity and fairness to our nation's immigration laws.

Some members of Congress might agree that illegal immigration is a serious problem in Los Angeles, Phoenix, or Miami, but ask why their constituents in Minneapolis, or Muncie, or Montgomery should share the costs of illegal immigration.

The most obvious answer is because it's the right thing to do as a matter of fairness and as a matter of public policy. But it's also true that your constituents are already sharing the costs.

They pay for it when their tax dollars are spent to keep illegal immigrants in federal prison, or spent on Medicaid for illegals, or spent to finance welfare payments for the citizen children of illegal immigrants.

And although the problem is most acute in our states, the problem is growing across the country. That is why our brother and sister governors voted unanimously to adopt as the policy of the National Governors' Association that full federal reimbursement be paid the states for as long as we are forced to bear the burden of illegal immigration.

Other members of Congress may say "It's wrong to spend any tax dollars -- state or federal -- to subsidize illegal immigration. We should instead be turning off the magnetic lure of guaranteed benefits that today reward people who break the law and successfully evade the border patrol." That is, in fact, my own view. But until a majority in Congress can make that the law, than there must be full federal reimbursement.

The only way to solve the problem is to face up to the problem. Confront it squarely now, or the problem will only grow rapidly worse and become more difficult to solve next year. If it has not yet spilled into your state, it soon will. And already, your constituents are paying far more each year as federal taxpayers for federal failure to secure the border than it would cost us to fix it.

So, I ask for your support in fixing the problem. Washington must secure the border without further excuse or delay, and either by repeal of mandated services or full reimbursement for their cost prevent further hardship and unfairness to state taxpayers and needy legal residents.

The time has come to end illegal immigration as we know it.

Thank you very much.

STATEMENT OF HON. LAWTON CHILES, GOVERNOR OF FLORIDA

Chairman BYRD. Governor Chiles.

Governor CHILES. Good morning, Mr. Chairman, Mr. Hatfield, and all of the distinguished members of this committee. I am especially pleased to be with you today to discuss a matter of significant importance to Florida as well as the Nation. Immigration is America's legacy. Our country's proud history as a melting pot is demonstrated in Florida. The fabric of our State is a weave of many nationalities. In fact, we consider Florida's diversity one of its greatest strengths.

Mr. Chairman, once before I asked this committee for crucial help after Hurricane Andrew devastated a large portion of our State, and then you each opened your hearts and your purses to our need. The people of Florida, and especially I, remember that kindness with great gratitude. As surely as the winds and rains of Hurricane Andrew assaulted south Florida in a crisis that forever changed it, there is another storm, illegal immigration, that is battering our shores today, unleashing yet another crisis. And we ask

you today to recognize this crisis and to try to help us do something about it.

Florida is a magnet for people seeking a better life, a piece of America's dream, but illegal immigration has created a living nightmare for Floridians forced to shoulder the burden of this crisis. The people of Florida are saying enough to being victimized because of our State's geography. On their behalf, I ask you to help relieve Florida of this unfair burden that illegal immigration has become.

Florida's population growth is influenced by migration, domestically and internationally. Our population of 13 million places us fourth in the country, soon to be third. Statewide, 36 percent of our people are foreign born; 60 percent of our people in Miami are foreign born. Many of the people who immigrate to Florida are entirely self-sufficient. I am here today to ask for help for those who are not, those who Florida must and will provide health care, education, welfare, and yes, sometimes incarceration.

This population, ranging anywhere from 200,000 to 1 million—and that is an interesting range because we do not know within that—is made of illegal aliens, temporary statuses, visa overstay, and asylum applicants and parolees. INS said Florida had 345,000 illegals in 1993. The Bureau of Census claimed 137,000. So the two Federal agencies were that far apart. I ask that a report commissioned by the Florida legislature on the impact of immigration be included, and I would strongly suggest that the Federal Government undertake a similar national study, so that we really do know the numbers.

[The information follows:]

[CLERK'S NOTE.—The information is being retained in the committee files.]

Governor CHILES. Asylum applicants, parolees, temporary protective status, clog the INS process in Florida. Many wait for years for hearings and decisions. Florida cares for many of them during this limbo period. In education, the State operates under the terms of a consent decree that prohibits us from asking the legal status of refugees, so we cannot ask the status, and then certain agencies of the Federal Government tell us we are overestimating. We do not have any accurate numbers, and by court order we cannot ask for those numbers.

Approximately 43,000 immigrant students were in our classrooms in 1994. The State was provided with little reimbursement under the Federal Emergency Immigrant Education Act. It costs an average of \$4,000 to educate one immigrant child. We get \$35 per student in reimbursement. We do not make it up on the volume.

Many of our public school teachers are in classrooms which resemble a U.N. General Assembly of children. Imagine one teacher faced with handling children from 14 different nationalities, languages, and cultural differences, and, you see, many of our classrooms have this mix.

The waiting room at Jackson Memorial Hospital in Dade County finds this same general assembly population waiting for health care. We see there people with diseases which have been unknown in the United States, people who have not seen a medical profes-

sional in years, people with no medical records or history, and certainly no insurance.

The population of our State prisons is overflowing, and alien felons fill as many as four prisons in Florida on a daily basis. In Florida, we have 3,000 to 4,000 alien inmates in our State prison system. The presence of criminal aliens alone forces us to build the equivalent of three or four extra prisons at an average construction and operating cost of \$42 million per facility.

The administration is supporting funding for incarceration of illegal aliens. I strongly urge the committee to support funding for the long authorized but never funded section 501 of the Immigration and Naturalization Act.

Senator Bob Graham has introduced legislation, the Criminal Aliens Federal Responsibility Act of 1994 that would require the Federal Government to live up to its responsibilities in this area.

While in the U.S. Senate, I sponsored provisions of the current immigration law requiring the Attorney General to take custody of criminal aliens until they are physically deported. We have succeeded in developing with the Justice Department an institutionalized hearing program to expedite the deportation of criminal aliens.

The State recently received \$200,000 from the Federal Justice Department to improve a procedure for identifying criminal aliens in Florida, and a memorandum of understanding between the State and INS allows nonviolent criminal aliens to be eligible for a clemency hearing in Florida, expediting their deportation from our prisons as well as from the country. We have recently granted this conditional amnesty to about 120 nonviolent criminal aliens, and hopefully some of them will be getting on the boat soon.

A copy of the State's memorandum of understanding with INS is included for the record.

[The information follows:]

[CLERK'S NOTE.—The information is being retained in the committee files.]

Governor CHILES. I have joined with Dade County Public Health Trust, the school board of Dade County, in suing the Federal Government for lack of reimbursement to Florida for the cost of immigration. The Federal Government has failed to recognize its responsibilities for providing care to persons its policy has allowed entry.

I might note that I heard my distinguished former colleague and Governor of California say that he is only getting 40 new Border Patrol agents per month in the San Diego area. We have 40 Border Patrol agents in Florida. That is what we have. We hope we keep those, and you can imagine, with Florida's coastline, in effect what 40 agents do.

It took 6 years for the regulations of the immigration emergency fund to be published. Last week, on June 14, at long last the regulations were promulgated. Those regulations allow Florida and all of the other States to compete for \$35 million in emergency immigration funds appropriated in 1986. The regulations changed where the Justice Department can do it in 1988.

Tomorrow, Florida will be in there trying to get some of that money. The State of Florida will submit that obligation. Immigration policies and practices are constitutionally reserved for the Federal Government, immigration enforcement and the lack thereof to-

tally under the control of the Federal Government, and yet Florida is forced to deal with the impact of that policy. Our bills are increasing, and Florida taxpayers must pay the bill. We continue to seek help through all channels that are open to us—the administrative, the legislative, and even the legal system.

Early in 1991, I directed the establishment of a Governor's working group on immigration, and that working group has contributed hundreds of hours toward the development of a Federal plan for responding to a mass immigration emergency.

We have negotiated with the Justice Department, the Pentagon, the Coast Guard, Customs Service, Public Health Service, and we are hopeful that we are prepared to respond to an emergency, especially considering today's troubled situations in the Caribbean region. A copy of the chronology of the State's negotiation with the Federal Government on an emergency immigration plan is included for the record.

[The information follows:]

[CLERK'S NOTE.—The information is being retained in the committee files.]

Governor CHILES. Last week, emergency managers in Florida conducted a 2-day training exercise of our ability to handle the next hurricane emergency. The same kind of readiness is urgently needed to prepare for a possible wave of immigration emergency. We need a desktop exercise to see whether we have a plan now that would fit some of the scenarios that could happen in Cuba, Haiti, or other places.

We join forces with the Governors of California, Texas, New York, Illinois, Arizona, to work with the congressional delegations, the Congress, and the administration, toward immigration reforms and reimbursements. I think that our group has influenced the administrative decisions and legislation relating to health care for aliens, educational program, the criminal alien reimbursement and refugee assistance.

We have worked to ensure more adequate treatment of undocumented aliens within various health care reform proposals. We are currently mandated to provide medical care. We think it is more than fair that the Federal Government enhance the Federal match for our requirement to mandate that care up to 100 percent for the care of undocumented aliens.

We have succeeded with the help of our delegations, led by Congressman Johnson of Florida, to increase the authorization level from \$40 million to \$75 million for the Emergency Immigrant Education Act. We hope that this committee would provide the appropriations necessary to see this increase realized.

I and other members of my administration testified before Barbara Jordan and the U.S. Commission on Immigration Reform in Miami earlier this year. We are hopeful that her Commission will include recommendations concerning adequate reimbursement to State and local governments who provide significant care to aliens. We are including copies of our statement.

Mr. Chairman, the staff of the committee urged me to be creative and not just be here asking for dollars to assist the States. As a former member of your esteemed committee and the Budget Committee, I am certainly sympathetic to your crusade. There are a

number of initiatives that could help the States expand the institutionalized hearing program to all affected States.

The Justice Department claims that 70 percent of their Federal detainees with deportation orders are criminal aliens. Why should we wait? Let us get those detainees out of the country. And yet many of them stay here for long periods of time.

Influence the U.S. refugee resettlement program to be more ecumenical. Resettle these good, decent people in other countries, regions, and States. I want to congratulate our new representative in Haiti, the former distinguished Congressman who is working in that regard, and through efforts of the administration has gotten some third countries that will take some of the refugees, so we are delighted to see that.

Elevate immigration as a priority in the country so the resources match up to immigration's astounding impact on the country, and make the refugee assistance program more reflective of the U.S. refugee policy. Make the levels of assistance correspond to the annual number of refugees which will be allowed entry.

As the senior Senator from Florida, with Dante Fascell, I was the author of many of the refugee programs like targeted assistance. I realize there has to be sufficient aid to meet the needs of those refugees who are granted entry. At one time, we thought that refugee assistance would have to last 3 to 5 years. It is 8 months of assistance now.

Require INS to complete and formalize the mass immigration emergency plan. Allow local enforcement participation through a mutual aid agreement.

Mr. Chairman, you noted the INS' resources. It, of all Federal agencies, is behind the curve. I can remember when they did not have computers, even. They maybe now have some of those basic tools. They are totally understaffed. I can tell you they are overwhelmed in Florida. There are people there that jump off the walls because of the burden that they have, and because of that, nothing happens. There are so many of these things, it could move quicker. So we need to strengthen the INS resources in Florida.

I spoke of the Border Patrol, extension of the Krome Avenue Detention Center, and last, my personal creative contribution; give each alien a charge card, a Federal charge card that identifies their status and charges their care to the Federal Government. In line with today's electronic benefit transfers, aliens could use that card in our hospitals, in our clinics, in our schools, in our prisons, in our social service centers. This card would only be good until their resident status is determined. It would be a major incentive to complete their processing and remove them from the Federal charge.

We think it would be a major incentive to have the country understand the impact of this problem. As long as California and Florida and Texas and New Jersey and Arizona and New York sort of suffer the problem, and silently do so, and no one else does, then perhaps we do not understand the problem and the crisis we have.

I well understand your allocations. I remember the fights that used to go on on how the money would be allocated, but we have a very effective Gramm-Rudman-Hollings act in Florida. It is by constitution. You have got to balance up at the end of every year,

and just as Pete was saying, we have to pay the bill, and so we pay for all of this.

We pay for it out of our existing sources, and to do so—we think our charges are roughly \$1 billion a year that it is costing us in our State. That means that we are depriving our citizens of vital services that they are entitled to, that they need to have, so we feel that we have been good neighbors. We do not make foreign policy. We take care of everyone that comes. We do not turn anybody away, but we are choking on it, and we feel that there needs to be some justice.

Again, you saw the strengths of our people after Hurricane Andrew. We will continue to do our share, but we think the Federal Government must contribute to this partnership. We ask you for nothing more than justice, but we demand nothing less than fairness.

Thank you.

PREPARED STATEMENT

Chairman BYRD. Thank you, Governor Chiles. Your statements, the various materials that you requested be included in the record, will be included, as will be your prepared statement in its entirety.

You spoke of the fight over allocations we used to have. They were mere skirmishes compared to the fights we now have over much less to be allocated.

[The statement follows:]

STATEMENT OF GOV. LAWTON CHILES

Mr. Chairman and Committee members. I am especially pleased to be with you today to discuss a matter of significant importance to Florida as well as the entire Nation.

Immigration is America's legacy. Our country's proud history as a melting pot is certainly demonstrated in Florida. The fabric of our State is a weave of many nationalities forming a rich and diversified culture. Floridians are rightly proud of this heritage. In fact, we consider Florida's diversity one of our greatest strengths.

Mr. Chairman - once before I asked this Committee for critical help. . . after Hurricane Andrew devastated a large part of our State. Then, you opened your hearts and your purses to our needs. The people of Florida - and especially I - remember that kindness with gratitude.

As surely as the winds and rains of Hurricane Andrew assaulted south Florida in a crisis that forever changed it, there is another storm - illegal immigration - that is battering our shores today, unleashing yet another crisis.

Today, I ask you to recognize this crisis - and to help us do something about it.

Florida is a magnet for people seeking a better life and a piece of the "American Dream" - but illegal immigration has created a living nightmare for Floridians forced to shoulder the burden of this crisis.

The people of Florida are saying "enough" to being victimized because of our State's geography. On their behalf, I ask you to

help relieve Florida of the unfair burden that illegal immigration has become.

Florida's population growth is influenced by migration - domestically and internationally. Our population of 13 million places us 4th in the country, with anticipation that our growth will soon boost us to 3rd. Foreign born make up almost 36% of our people statewide and 60% in Miami.

Many of these persons who migrate to Florida are entirely self-sufficient. I am here today to ask for help for those who are not - those for whom Florida must - and will - provide health care, education, welfare, and yes, sometimes incarceration.

This population - ranging anywhere from 200,000 to 1 million - is made up of illegal aliens, temporary statuses, visa overstays and asylum applicants and parolees.

An important fact to note is that their status is irrelevant to those who care for them. Most are not asked about their legal status when they seek health care or education for their children. Their immigration status does not influence the criminal sentence for those who break our laws.

It is difficult to give you definite numbers. Our number of undocumented aliens is lower than states like California and Texas as many of our alien residents are applicants for one status or another. The numbers are so difficult to confirm that I hesitate to use them - i.e., the INS says we had 345,000 illegals in 1993 and the Bureau of Census only claimed 137,000 for the same period. Instinct and demand tells me the number is much higher. I ask that a report commissioned by the Florida Legislature on the immigration impact on Florida be included in the record. I would also strongly

suggest that the federal government undertake a similar national study.

Asylum applicants, parolees, temporary protective status, etc. clog the INS process in Florida. Many must wait for years for hearings and decisions. Florida cares for many of them during this "limbo" period.

In education, the State operates under the terms of a consent decree (META) which prohibits us from asking the legal status of students. This decree is reinforced by the U.S. Supreme Court decision (Plyler) which ordered that states provide education to all children, regardless of status. We do know that approximately 43,000 immigrant students were in our classrooms in 1994 and the State was provided with little reimbursement under the Federal Emergency Immigrant Education Act. Small is measured by the fact that it costs an average of \$4,000 to educate one immigrant child and the State is reimbursed a mere \$35 per student to assist with the special needs.

Let me put a human face on all of these numbers. Many of our public school teachers are in classrooms which resemble a UN general assembly of children. Imagine - one teacher faced with handling children of as many as 14 nationalities, languages and cultural differences. These waves of immigrants flow through our classrooms with no regular pace or warning but challenge the most talented of teachers to be able to relate and communicate - let alone educate.

The waiting room at Jackson Memorial Hospital in Dade County - Florida's largest public hospital - finds this same general assembly population waiting for health care - both emergency and chronic. The same language barriers exist as in the classrooms. But here we have people with diseases often unknown in the U.S.;

people who have not seen a medical professional in years; people who have no medical records or history and certainly no insurance. Think of the time and expense of managing and caring for these destitute people.

The population of our state prisons is overflowing, as in most other states. Overburdened law enforcement officials must deal with these crowded and often dangerous conditions. In addition to our own criminals they must handle "alien felons" - i.e, persons who are in the U.S. illegally and really a charge of the federal government. I believe that. You better believe that my sheriffs and wardens believe that. Alien felons fill as many as 4 prisons in Florida on a daily basis.

Mr. Chairman and members of the Committee, I joined with Dade County Public Health Trust and the School Board of Dade County in suing the federal government for the lack of reimbursement to Florida for the cost of immigration. The suit was borne out of frustration over the number of years the federal government has failed to recognize its responsibility for providing care to persons it's policy has allowed entry. One example of such neglect is the fact that it took 6 years for the regulations on the immigration emergency fund to be published. I am very relieved to report that at long last the regulations were promulgated last week, June 14. I am even more relieved to report that the State of Florida will soon submit an application to the Attorney General for reimbursement.

As you well know, immigration policies and practices including the granting of an entry status are constitutionally reserved for the federal government. Immigration enforcement - and the lack thereof - are totally under the control of our federal government. A state's lack of control over this issue is the basis for my frustration. The people of Florida look to me to deal with this

growing burden. I have no defined role in the development of immigration policy. Yet, my state and local governments are forced to deal with the impact of that policy. I filed suit because there had been no acknowledgement of this fact for some time - and our bills are increasing. More to the point, Florida taxpayers must foot the bill.

I did not just file the lawsuit and then stand on the courthouse steps to wait. To the contrary. I continue to seek help through all channels open to me - the administrative, legislative, and yes, the legal trenches.

Early in my Administration in 1991, I directed the establishment of a Governors Working Group on Immigration in response to situations in the Caribbean region, particularly Cuba and Haiti. This working group has contributed hundreds of hours towards the development of the federal plan for responding to a mass immigration emergency. This Group has represented the State in negotiations with the Administration's representatives from the Justice Department, the Pentagon, the Coast Guard, the Custom Service, the Public Health Service and other federal agencies. Much progress has been made. I am hopeful that we are prepared to respond to an emergency - especially considering today's troubled situations in the Caribbean region. A copy of a chronology of the State's negotiations with the federal government on an immigration emergency plan is included for the record.

Last week, emergency managers in Florida conducted a two-day training exercise to test our ability to handle the next hurricane emergency. The same kind of readiness is urgently needed to prepare for a possible wave of illegal immigration.

I have also joined forces with the governors of California, Texas, New York, Illinois and Arizona to work with our respective

Congressional Delegations, the Congress and the Administration towards immigration reforms and reimbursements. This group represented here today has influenced Administrative decisions and legislation relating to health care for aliens, education programs for aliens, criminal alien reimbursement, and refugee assistance.

Our respective State offices here in Washington work this issue daily as administrative and legislative decisions are made.

Briefly, our state coalition's agenda is to make U.S. immigration policy and programs more responsive to reality - i.e., more reflective to the number of aliens who actually reside in our states.

We have worked with the Administration and Congress to insure that there is more adequate treatment of undocumented aliens within various health care reform proposals. This is the population for which we are currently mandated by the federal government to provide emergency medical care under the terms of the Omnibus Budget and Reconciliation Act of 1986 (OBRA). Currently, states match this mandate according to their medicaid formula. We think it more than fair that the federal government enhance the federal match up to 100 percent for the care of the undocumented.

We have succeeded with the help of our Delegations led by Congressman Johnston of Florida in increasing the authorization level from \$40 million to \$75 million for the Emergency Immigrant Education Act which provides some reimbursement to schools impacted by large numbers of immigrant children. We would hope that this Committee would provide the appropriations necessary to see this increase realized.

Again with the help of our Congressional Delegations, we governors have succeeded in having this year's crime bill recognize the impact that criminal aliens have on our state and local

correctional facilities. In Florida, we have 3,000 to 4,000 alien inmates at any given time in our state prison system. With such numbers added to our prison population, the presence of criminal aliens alone in our system force us to build the equivalent of three or four extra prisons at an average construction and operating cost of \$42 million per facility. That is \$120-\$150 million I could spend on education or health care in Florida. As you know, the Administration is supporting funding for incarceration of criminal aliens. Leon Panetta and the folks at OMB have sent a proposal to the Hill. I would strongly urge the Committee to also support funding for the long authorized - but never funded - section 501 of Immigration and Nationality Act. Senator Bob Graham introduced legislation, the "Criminal Aliens Federal Responsibility Act of 1994" that would require the federal government to live up to it's responsibilities in this area.

While in the U.S. Senate, I sponsored the provision of current immigration law which requires the Attorney General to take custody of criminal aliens until they are physically deported. Therefore, I am particularly pleased that this Administration is working to enforce this provision. We have succeeded in developing with the Justice Department an Institutionalized Hearing Program (IHP) in Florida to expedite the deportation of criminal aliens. The program is similar to one in New York which streamlines the process for deporting criminal aliens. I am pleased that the State has recently received \$200,000 from the Justice Department to improve a procedure for identifying criminal aliens in Florida. Such a procedure is essential for making the IHP effective.

In addition, in Florida we have taken this program one step further through a Memorandum of Understanding with the INS which allows non-violent criminal aliens to be eligible for a clemency hearing in Florida, thus expediting their deportation from our penal system as well as the country. A copy of the State's

Memorandum of Understanding (MOU) with the INS is included for the record.

I and other members of my Administration testified before Barbara Jordan and the U.S. Commission on Immigration Reform when they visited Miami this year. I am hopeful that the Commission will include recommendations for Congress on issues concerning adequate reimbursement to state and local governments who provide significant care to aliens and for adequate levels of refugee assistance to match the number of refugees allowed entry into the U.S. I am including for the record copies of statements made by Florida officials before the Commission.

Mr. Chairman, the staff of the Committee encouraged me to be "creative" and not just ask for dollars to assist the states. As a former member of your esteemed Committee and the Budget Committee, where I often agonized over tough decisions which had to be made due to limited dollars, I am sympathetic to your crusade. I do indeed know what low 302(B) allocations - or 602(B), or what ever they are called now - can do to your fortitude. Oh, do I know!

HOWEVER, I have new challenges now - also inhibited by limited dollars and the constitutional mandate that I must balance my budget, year after year. You want to talk about challenges, especially when our programs are faced with unpredictable numbers of alien participation. I can't deny it. We need help in caring for these people.

But, in deference to my respect for the Committee's wishes, I will also be creative. There are a number of initiatives which could help states.

- Expand the IHP program I described above to all affected states. The Justice Department claims that 70 percent of

their federal detainees with deportation orders are criminal aliens - lets get them out of this country. Think what that could do for our crowded prison systems; think what that can do for our backlogged immigration processing.

- Influence the U.S.'s refugee resettlement program to be more ecumenical. Why can there not be more aggressive programs to resettle these good, decent people in other countries, other regions and other states. I do not believe our Forefathers foresaw this as a border state responsibility.
- Elevate immigration as a priority in this country. Until the mission, until the INS, and yes, until the resources match up to immigration's astonishing impact on this country - the hole will just keep getting bigger. This "sink hole" just might swallow us all up one day.
- Make refugee assistance programs more reflective of U.S. refugee policy - make levels of assistance correspond to the annual number of refugees which will be allowed entry. As the former Chairman of this Committee's Subcommittee on Labor/HHS programs, I am well aware of the thousands of programs whose needs must be met. But, as the Senior Senator from Florida, I along with Dante Fascell was the author of many of the refugee programs - like targeted assistance - and realize there must be sufficient aid to meet the needs of those refugees who are granted entry. I would also suggest that it would help States like Florida tremendously to allow such assistance for 12 months, instead of current limitation to 8 months.
- Require the INS to complete and formalize the mass immigration emergency plan and allow local law enforcement participation through a mutual aid agreement.
- Strengthen the INS resources in Florida - additional border patrol and an expansion of the Krome Avenue Detention Center would be a good start.
- And, lastly, my personal creative contribution. Give each alien a charge card - a federal charge card - that identifies their status and charges their care to the federal government. In line with today's EBT - electronic benefit transfers - they can use that card in our hospitals and clinics, in our schools and in our social services centers. The card is only good

until their residence status is determined. This would be a major incentive to complete their processing and remove them from the federal charge. Currently, there is no incentive. We in the states care for them while time lapses. Let the federal government get the bills and I guarantee you we'll see swift results.

Mr. Chairman, the people and service providers of Florida have been stretched - but they are resilient and caring. You saw their strengths after Hurricane Andrew. You saw their will following MARIEL. But, they can do only so much.

They need your recognition that this is not their burden, not your burden, but OUR burden. Floridians will continue to do their share but the federal government must contribute to the partnership. We seriously believe that you can play a major role in seeing that such cooperation increases. The people of Florida ask you for nothing more than justice - but they demand nothing less than fairness.

Thank you.

STATEMENT OF HON. FIFE SYMINGTON, GOVERNOR OF ARIZONA

Chairman BYRD. Governor Symington, please.

Governor SYMINGTON. Thank you, Mr. Chairman, Senator Hatfield, distinguished members of the committee, and Mr. Chairman, I thought your opening statement bracketed the issue well.

Each of us has responsibilities to the citizens of our Nation and our States, and we also have responsibilities to each other. As Governors, we oversee the institutions of our States which provide appropriate services to those in need, protect the public from threats to health, welfare, and personal safety, and we nurture educational systems to ensure our children's future.

The Federal Government has many responsibilities and challenges today, and the size and reach of the Federal establishment has grown over the last several decades, but what is becoming more and more evident to Governors is that sometimes its reach exceeds its grasp.

Nowhere is that more evident than in the failure to control the border. That failure is beginning to severely affect the ability of the States to carry out our responsibilities to our citizens. We can engage in lengthy discussions about the relative roles of the States versus the National Government, but in this discussion, there really can be no debate. It is a fundamental responsibility of the Fed-

eral Government to provide for the common defense of our Nation's borders and to establish a uniform rule of naturalization.

The Constitution also requires of the United States a guarantee to the States of protection against invasion. While the immigration invasion is not of hostile intent, there can be no doubt that each of the States suffers from the failure of the United States to live up to its guarantee.

Immigration is a sensitive subject for all of us. Our Nation was built upon the courage of immigrants from all parts of the world. We all benefit from the contributions of people who make their way to the United States. Arizona in particular is far richer because of our proximity to Mexico with the flow of culture, ideas, goods, and people. None of us, I believe, is opposed to immigration.

The problem before us is the failure to secure our borders against unchecked, illegal immigration, and the costs of illegal immigration to limited State budgets. Now, after reviewing the information from California and Florida, you may not be impressed by Arizona's numbers, but the relative impact is every bit as significant to Arizona as to our more populous border States.

Let me summarize Arizona's budget impact figures using the methodology agreed to by our several States in consultation with the Office of Management and Budget. In the area of corrections, the cost of incarcerating undocumented immigrants who commit felonies in Arizona is approximately \$95 million for fiscal year 1994, when you include operating costs along with construction costs.

We have approximately 1,800 undocumented immigrants incarcerated in Arizona's prisons. It is a little bit over 10 percent of our inmate population, and please remember that the Immigration Reform and Control Act of 1986 authorizes the Attorney General to reimburse States for costs incurred by the States for the imprisonment of undocumented immigrants, subject to appropriation, while no such appropriations have been made.

Arizona has filed suit to recover moneys from the Federal Government. Our claim is for the capital cost necessary to build the prison space to hold this population and for 2 years of operating cost, totaling \$121 million.

In addition, this accounting does not take into consideration the incarceration costs borne by local governments, especially near the border. These are small towns with extremely limited resources, and they are being overwhelmed. Incarceration costs and law enforcement costs are overwhelming many of these communities, particularly in Cochise and Santa Cruz Counties. There, the civil order itself is seriously threatened by the problem.

For instance, in Santa Cruz County the jail there was originally built to house about 50 people. Nogales, AZ, has a population of about 20,000 people. Today, the prison is holding approximately 120 individuals, 80 percent of whom are illegal immigrants.

In the area of medical care, this is a little more difficult to quantify. Children born in this country receive full citizenship status regardless of whether their parents are undocumented. In Arizona, our State Medicaid program is paying for approximately 300 undocumented mothers to give birth each month. This amounts to ap-

proximately \$1 million in health care and \$1 million in AFDC benefits for those children.

In addition, between 1982 and 1993, Arizona provided health care services for people of low income, but who did not meet the Federal eligibility standard. This is a medical program that has only minimal Federal matching money.

In 1993, the State eliminated eligibility for undocumented immigrants from this program, with the expected savings to the State of \$35 million. The States are still required to pay for emergency medical services for undocumented immigrants, and we calculate that cost to be approximately \$27 million in Arizona.

In the area of education, Arizona complies with the 1982 Supreme Court *Plyler* decision requiring education of undocumented immigrant children in our public schools. Our department of education has not tracked undocumented children populations, but as a result of our discussions with OMB, we estimate that over 10,000 undocumented immigrant children are attending Arizona schools at an annual cost per student of over \$4,200, and the total cost of this population is approximately \$44 million, so when you include the capital cost for classroom space, that figure has increased by another \$10 million.

Combining these three issues, they add up to over \$204 million annual cost to the State, which is approximately 5 percent of our general fund budget. That amounts to about 13 percent of State spending on K through 12 education, and it represents about 40 percent of what we spend on the State share of medical care for the poor. It is approximately equal to what the State spends to run Arizona State University.

Now, I find that comparison staggering. The amount of money the State spends to support an institution with 44,000 students, which by the way is one of the largest universities in the United States, is also being spent to address the costs associated with undocumented immigrants in Arizona.

I do not believe we should deny these health and education services to those in need. Our Nation should respect and protect the human rights of all people within our borders. However, if these people are violating Federal law, it is the Federal Government which must either enforce the law more effectively or admit its failure and compensate the States for that failure.

The Federal Government must stand up to its responsibilities in this area. The State of Arizona is engaged in a number of efforts to reduce the fiscal impact of undocumented immigrants. I already described our restriction of medical services to emergency care consistent with Federal mandate. But, in addition, my department of corrections is expanding its voluntary repatriation program. Arizona has had enormously productive discussions with Mexico about incarcerating Mexican citizens in Mexican prisons for crimes committed in the United States. This is not a wholesale solution, particularly for very violent crimes and criminals. However, it will result in mitigation of costs.

To promote the impact of these efforts, the INS must reduce the time it takes to process repatriation of criminals to serve their sentences in their home countries. I am now experiencing an average processing time in our State of about 9 months. It would be great

to reduce that time to 30 days. You have also requested suggestions for improvements in immigration control that will reduce illegal migration and the subsequent cost to the States.

Well, I am afraid there are no easy answers. We have a 300-mile-long border with Mexico and we are undermanned, severely undermanned in controlling that border. In the long term, I am confident that as the effects of NAFTA take hold, the Mexico economy will continue to evolve and these pressures to come to the United States for economic relief will diminish. This, of course, will take time. I have also observed that the Clinton administration has attempted to beef up border security. They have directed massive efforts at the border crossings near El Paso and San Diego.

But the result is that the flow of people has been funneled into Arizona in record numbers. Border arrests in Arizona are up 100 percent between April and May, and 300 percent between 1993 and 1994. Let me translate that into numbers. Prior to this pressure in the El Paso and in the San Diego areas, we had experiencing about 3,000 apprehensions a month. We have now skyrocketed to 18,000 to 20,000 apprehensions a month, which calculates out to 240,000 a year. Those are the individuals who are apprehended. That does not count the many thousands who are coming across our border, especially during the nighttime, through the Sonoran Desert.

What this proves is that border security can work, assuming the requisite resources are available to make it work across the entire border. It cannot be simply directed at those areas of the border with the largest populations. It also cannot be accomplished by directing massive increases in personnel without accompanying increases in equipment, technology, and investigative support.

In enforcing border security, there must be sensitivity to the flow of legal citizens. Many of our border communities are essentially one city divided by a chain-link fence. That fence line appears terribly arbitrary at times. It divides families and cultures. The emphasis at our border, I believe, should be one of friendship and not hostility. We can be tough on the border, but toughness is not compromised if we also approach the issue of border enforcement with courtesy, decency, humanity, and respect.

I am upset about the way in which State concerns have been interpreted by some. As Governor Wilson has said, this issue is a matter between the States and the Federal Government. It is about our responsibilities to one another and how we address these problems. It is not about Mexico bashing or racial arrogance.

I have enjoyed a tremendously constructive relationship with the Governor of Sonora, Arizona's sister State in Mexico. Governor Beltrones and I are working closely to achieve progress in many areas, including environmental protection on the border, binational economic development initiatives, educational exchanges, and joint programs to protect public health. The relationships between our States will be important contributors to the progress we are all trying to achieve. It would be foolhardy for us to jeopardize those relationships through irresponsible rhetoric.

Congress must express its serious commitment to border security in tangible ways. The current costs of failure are enormous, but those costs are not just on the balance sheet of the State or Federal governments. The financial impacts are critical to the health of our

States and our ability to carry out our responsibilities, but in appealing to you to renew your commitment to border security, we should not lose sight of something far more important than budgets.

There is an enormous human cost associated with illegal immigration. Every day citizens of Mexico, other Central American or island nations risk their lives to come to this country. Many of them lose their lives, either to the heat, the sea, or at the hands of bandits. Dozens of people drown attempting to cross the Rio Grande each year. In 1987, 13 bodies were found in Arizona's Sonoran Desert. They died from the effects of 115 degree heat and from the abuse of smugglers who denied them sufficient water to survive.

When immigrants do succeed, they become even more vulnerable to the predators in our society. When they become victims, they are reluctant to even approach law enforcement for fear that they will be arrested and deported. If these people continue to believe that the risk is worth it, then they will continue to try and many of them will die. Well, that is one of the most significant costs of the U.S. failure to secure its border, and that is why all of us are asking you to take this responsibility much more seriously. We need more manpower on our 300-mile border.

Thank you for your time, Mr. Chairman. Thank you for your willingness to consider the needs of your partners in federalism.

PREPARED STATEMENT

Chairman BYRD. Thank you, Senator Symington. Your prepared statement will appear in the record. From time to time I believe you varied from it slightly.

[The statement follows:]

STATEMENT OF GOV. FIFE SYMINGTON

I join my colleagues in expressing my appreciation for the opportunity to appear before you. Each of us has responsibilities to the citizens of our nation and of our states. We also have responsibilities to each other. As Governors we oversee the institutions of our states, which provide appropriate services to those in need, protect the public from threats to their health, welfare and personal safety, and nurture educational systems to ensure our future.

The Federal Government also has many responsibilities and challenges. The size and reach of the Federal establishment has grown over the last several decades. But what is becoming more and more evident to Governors is that this reach often exceeds its grasp. Nowhere is that more evident than in the failure to control the border. That failure is beginning to severely affect the ability of the states to carry out our responsibilities to our citizens.

We can engage in lengthy discussions about the relative roles of the states versus the national government. But in this discussion, there can be no debate. It is a fundamental responsibility of the federal government to provide for the common defense of our nation's borders, and to establish a uniform rule of naturalization. The Constitution also requires of the United States a guarantee to the states of protection against invasion. While the immigration invasion is not of hostile intent, there can be no doubt that each of the states suffers from the failure of the United States to live up to its guarantee.

Immigration is a sensitive subject for all of us. Our nation was built upon the courage of immigrants from all parts of the world. We all benefit from the contributions of people who make their way to the United States. Arizona, in particular, is far richer because of our proximity to Mexico, with the flow of culture, ideas, goods and people. None of us, I believe, is opposed to immigration. The problem before us is the failure to secure our borders against unchecked illegal immigration, and the costs of illegal immigration to limited state budgets.

After reviewing the information from California and Florida, you may not be impressed by Arizona's numbers. The financial impact for us is decimal points to the left. But the relative impact is every bit as significant to Arizona as to our more populous border states. By comparing the similar aspects of our claims, you find that on a per capita basis, the budget impact of undocumented aliens on Florida and Arizona are fairly close (\$40 per capita vs. \$29 per capita). The impact on California per capita is twice as great as it is on Arizona.

Let me summarize Arizona's budget impact figures using the methodology agreed to by our several states in consultation with the Office for Management and Budget.

- CORRECTIONS

The cost of incarcerating undocumented immigrants who commit felonies in Arizona is approximately \$95 million for FY 1994, when you include operating costs with construction costs. We have approximately 1800 undocumented immigrants incarcerated in Arizona's state prisons. Please remember that the Immigration Reform and Control Act of 1986 authorizes the Attorney General to reimburse states for costs incurred by the states for the imprisonment of undocumented immigrants, subject to appropriation. No such appropriations have been made. Arizona has filed suit to recover monies from the federal government. Our claim is for the capital costs necessary to build the prison space to hold this population, and for two years of operating costs, totaling \$121 million.

In addition, this accounting does not take into consideration the incarceration costs borne by local governments, especially near the border. These are small towns with extremely limited resources. Incarceration costs and law enforcement costs have truly overwhelmed many of these communities. In Cochise and Santa Cruz Counties, the civil order itself is seriously threatened by the problem.

- MEDICAL CARE

This is more difficult to quantify. Children born in this country receive full citizenship status regardless of whether their parents are undocumented. In Arizona, our state Medicaid program is paying for approximately 300 undocumented mothers to give birth each month. This amounts to approximately \$1 million in health care, and \$1 million in AFDC benefits for those children.

In addition, between 1982 and 1993, Arizona provided health care services for people of low income, but who did not meet the federal eligibility standard. This is a medical program that has only minimal federal matching money. In 1993, the state eliminated eligibility for undocumented immigrants from this program, with expected savings to the state of \$35 million. The states are still required to pay for emergency medical services for undocumented immigrants, and we calculate that cost to be approximately \$27 million.

- EDUCATION

Arizona complies with the 1982 Supreme Court decision in *Plyler v. Doe* requiring education of undocumented immigrant children in our public schools. Our Department of Education has not tracked undocumented children populations. As a result of our discussions with OMB, we estimate that over 10,000 undocumented immigrant children are attending Arizona schools at an annual cost per student over \$4,200. Total cost of this population is \$44 million. When you include the capital costs for classroom space, that figure is increased by \$10 million.

Combined, these three issues add up to over \$204 million cost to the State. That amounts to about thirteen percent of state spending on k-12 education. It represents about forty percent of what we spend on the state share of medical care for the poor. It is approximately equal to what the state spends to run Arizona State University.

That comparison is staggering. The amount of money the state spends to support an institution with 44,000 students — one of the largest universities in the United States — is also being spent to address the costs associated with undocumented immigrants in Arizona.

I do not believe we should deny these health and education services to those in need. Our nation should respect and protect the human rights of all people within our borders. However, if these people are violating federal law, it is the federal government which must either enforce the law more effectively, or admit its failure and compensate the states for that failure. The federal government must stand up to its responsibilities in this area. It also must stop telling the states to pay for your failure to meet those responsibilities.

The State of Arizona is engaged in a number of efforts to reduce the fiscal impact of undocumented immigrants. I already described our restriction of medical services to emergency care, consistent with federal mandate.

In addition, my Department of Corrections is expanding its voluntary repatriation program. Arizona has had enormously productive discussions with Mexico about incarcerating Mexican citizens in Mexican prisons for crimes committed in the United States. This is not a wholesale solution, particularly for very violent crimes and criminals. However, it will result in a mitigation of costs. To promote the impact of these efforts, the INS must reduce the time it takes to process repatriation of criminals to serve their sentences in their home countries. I am told that the average processing time is now 9 months.

You have also requested suggestions for improvements in immigration control that will reduce illegal migration, and the subsequent costs to the states. I am afraid there are no easy answers. I am confident that as the effects of NAFTA take hold, and Mexico's economy continues to evolve, the pressures to come to the United States for economic relief will diminish. This, of course, takes time.

I have also observed that the Clinton Administration has attempted to beef up border security. They have directed massive efforts at the border crossings near El Paso and San Diego. The result is that the flow of people has been funneled into Arizona in record numbers. Border arrests in Arizona are up 100 percent between April and May, and 300 percent between 1993 and 1994. What this proves is that border security does work, assuming the requisite resources are available to make it work across the entire border. It cannot be simply directed at those areas of the border with the largest populations (or the largest number of electoral votes). It also cannot be accomplished by directing massive increases in personnel without accompanying increases in equipment, technology, and investigative support. In enforcing border security, there must be sensitivity to the flow of legal citizens. Many of our border communities are essentially one city divided by a chain link fence. That fence line appears terribly arbitrary at times. It divides families and cultures. The emphasis at our border should be one of friendship, not hostility.

We can be tough on the border, but toughness is not compromised if we also approach the issue of border enforcement with courtesy, decency, humanity and respect. I am upset about the way in which state concerns have been interpreted by some. As Governor Wilson has said, this issue is a matter between the states and the federal government. It is about our responsibilities to one another, and how we address these problems. It is not about Mexico-bashing, or racial arrogance.

I have enjoyed a tremendously constructive relationship with the Governor of Sonora, Arizona's sister state in Mexico. Governor Beltrones and I are working closely to achieve progress in many areas, including environmental protection on the border, bi-national economic development initiatives, educational exchanges and joint programs to protect public health. The relationships between our states will be important contributors to the progress we are all trying to achieve. It would be foolhardy for us to jeopardize those relationships through irresponsible rhetoric.

Congress must express its serious commitment to border security in tangible ways. The current costs of failure are enormous. But those costs are not just on the balance sheet of the state or federal governments. The financial impacts are critical to the health of our states, and our ability to carry out our responsibilities. But in appealing to you to renew your commitment to border security, we should not lose sight of something far more important than budgets.

There is an enormous human cost associated with illegal migration. Everyday, citizens of Mexico, other central American or island nations risk their lives to come to this country. Many of them lose their lives -- either to the heat, the sea, or at the hands of bandits. Dozens of people drown attempting to cross the Rio Grande each

year. In 1980, thirteen bodies were found in Arizona's Sonoran desert. They died from the effects of 115 degree heat, and from the abuse of smugglers who denied them sufficient water to survive. Eleven more immigrants have died making the crossing in Arizona since 1992.

When immigrants do succeed, they become even more vulnerable to the predators in our society. When they become victims, they are reluctant to ever approach law enforcement, for fear they will be arrested and deported.

If these people continue to believe that the risk is worth it, then they will continue to try, and many of them will die. That is the most significant cost of the United States' failure to secure its border. And that is why all of us are asking you to take this responsibility much more seriously.

Thank you for your time. Thank you for your willingness to consider the needs of your partners in federalism.

Chairman BYRD. I thank all of you, again, for your fine testimony. Governor Wilson, I will proceed to ask you some questions first. I certainly agree with all of you on many of the points that you have raised. Reference was made by Governor Wilson to Senator Feinstein's proposal concerning a fee. These and other suggestions that you have made are very worthwhile, as far as I am concerned. I, of course, cannot put myself in your shoes, the shoes of any one of you, but I think I can grasp an understanding of your problems. They are massive.

I should say, incidentally, that Senator DeConcini is not here, Governor Symington, because he is on the floor right at this moment and has been all day, and the afternoon and evening of yesterday, managing the Appropriation bill on Treasury and Postal Services. He is the chairman of that subcommittee. And I talked with him earlier this morning. He would like to be here. But I make that explanation so that everybody understands why he is not here.

Governor Wilson, you have come down pretty hard on the Federal Government. You speak of Federal mandates; you say our system has become so twisted that we now have illegal immigrants being guaranteed services by Federal mandate. In another area you say that just since 1988, the cost of providing medical care to illegal immigrants in California has grown eighteenfold. I believe you made reference to that on one of the charts as well.

Governor WILSON. Yes, sir.

Chairman BYRD. In another area you—I quote this excerpt: "It is what happens when the Federal Government forces us to pay for services to illegal immigrants that we cannot afford to provide to our own legal residents." I wonder if that rhetoric—we are all very accustomed to overblown rhetoric. I wonder if the rhetoric is not a little overblown as we take note of some actions on the part of State agencies in California.

What I am saying is, there may appear to be some mandates at the State level and some actions taken by the State Medicaid agency that have encouraged illegal immigrants to come into the State of California and have increased the burden upon the State, its finances, its programs, and its ability to render services to qualified aliens and others. Let me cite an example. I have a brochure—do

we have copies for the other members? Let us have copies for the other members.

This is a brochure that was developed in San Bernadino County, developed by the Maternal Health Program in that county, the department of public health. And it reads:

Medi-Cal has good news for pregnant women. You do not need to be a citizen to get Medi-Cal. The law has changed. The new law will help you if you are going to have a baby. It allows Medi-Cal to pay for the doctor and the hospital during your pregnancy. Even if you have applied for amnesty and are in the country illegally, you can now receive a special kind of Medi-Cal.

If I apply will it affect my amnesty? No. As of October 1, 1988, you may apply for this special Medi-Cal without it affecting the amnesty process. If I am here illegally, will it be reported to immigration? No. Under the new law, Medi-Cal cannot report you to immigration for applying for or receiving Medi-Cal while you are pregnant. How do I apply? Go to the nearest Medi-Cal office, ask to apply for restricted benefits, pregnancy only. When you apply, bring the following: some form of identification. A Social Security card is not required for restricted benefits. You also will need proof of your income and any property you own. You will need a letter from your doctor or the clinic saying you are pregnant.

I will move on and not read all of the items in the leaflet, but let me call attention to—

Governor WILSON. Mr. Chairman, I would be happy to respond to the question.

Chairman BYRD. I am not there yet.

Governor WILSON. Whenever you are, I will be happy to respond.

Chairman BYRD. I will call on you.

Now, in this same leaflet appears the question—and I might note that it is also published in Spanish—let me quote from that publication. "If I am here illegally, will it be reported to immigration? No. Under the new law, Medi-Cal cannot report you to immigration for applying for or receiving Medi-Cal while you are pregnant. Remember, the information you give to the worker is confidential. It will not be reported to immigration.

Now, Governor, it is my understanding that the pamphlet was, as I say, developed by a program manager in San Bernadino County. I am also advised that it was discontinued in 1991. What action are you taking to ensure that local health departments are not passing out materials similar to the ones that I have just quoted?

Governor WILSON. Mr. Chairman, it was discontinued at the direction of the State. As you pointed out, this was developed by one of the counties, and insofar as we are able to affect what they do, we have made it clear that they should discontinue that practice. We cannot, obviously, do anything about private advocacy groups, and unfortunately the information that was contained in it is largely true because it is a function of Federal law. The real problem that we have is, of course, that the program does exist. OBRA '86 authorized the provision of health care emergency care, and maternity care to illegal immigrants, that is a fact.

Chairman BYRD. But not prenatal care.

Governor WILSON. No; maternity care, that is correct.

Chairman BYRD. But not prenatal care. Go ahead.

Governor WILSON. And there is not anything that we can do about the fact that advocacy groups inform immigrants of that, whether they do it in the United States or in Mexico, but the county is no longer doing that. As you indicated, we directed them to

discontinue that in 1991, and all counties have been given similar direction.

Chairman BYRD. But Medi-Cal is not an advocacy group, is it? Is it not operating under the aegis of Medicaid?

Governor WILSON. Yes; that is what we call it. Medicaid in California is Medi-Cal.

Chairman BYRD. Then this is not a private advocacy group.

Governor WILSON. No; and it is no longer being—as you indicated just now in your statement, in 1991 that was discontinued. It was also a county that was doing it.

Chairman BYRD. But does not this brochure serve as an incentive to evade the Border Patrol?

Governor WILSON. Not any longer.

Chairman BYRD. Is it not a kind of magnetic lure that has been made in California?

Governor WILSON. Well, not for the last 3 years, Mr. Chairman. As you pointed out, in 1991 it was discontinued.

Chairman BYRD. All right. Your prepared statement reads as follows:

Governor WILSON. The problem, of course, that we have had is that the Border Patrol, being understaffed, does not catch these people, does not engage in preventive action, and they do come and they are legally entitled, under Federal law, to receive that health care.

Chairman BYRD. Your prepared statement reads as follows: "In fact, our system has become so twisted that we now have illegal immigrants being guaranteed services by a Federal mandate that our poor legal residents cannot afford themselves."

Governor WILSON. That is correct.

Chairman BYRD. "And that our State cannot afford to provide them because of the federally imposed State spending on illegal immigrants." Then you go on to present the scenario concerning two women who are pregnant in California and both of Hispanic descent.

You say that one will get care and one will not. The one who gets care is an illegal immigrant. She cannot legally work, but by Federal law is guaranteed maternity care. Federal law states, Governor Wilson, that illegal aliens are eligible for emergency medical services only.

Governor WILSON. Yes, sir; but that has been defined by the Federal Government to include delivery and postnatal care. And about two-thirds or better of the so-called emergency health care that is provided by Medi-Cal is maternity care.

Senator REID. Did you say two-thirds? I did not hear that. Two-thirds?

Governor WILSON. Yes, sir.

Chairman BYRD. For pregnant women, emergency medical services only. For pregnant women, this includes delivery services, but does not include prenatal care?

Governor WILSON. Not prenatal, but it is maternity care. It is delivery, obstetrical care, and postnatal care.

Chairman BYRD. Nevertheless, it is my understanding that in 1988—that was the year in which you spoke of this tremendous increase in the figures—in 1988, the State of California passed Sen-

ate bill, 175, a bill that expanded its maternity benefit coverage for illegal aliens to include prenatal care.

Now, in that regard, Governor Wilson, you said that the San Bernardino County leaflet had been terminated—its dissemination had been ended in 1991, and I stated that also. I have a 1993 brochure published by the California Department of Health Services entitled, "Baby-Cal." That brochure asks the question—this is in 1993—that brochure asks the question:

Can you get Medi-Cal?

If you are pregnant, you may get Medi-Cal even if you are not lawfully in the United States; you are not a U.S. citizen; you have applied for amnesty; you were denied Medi-Cal in the past.

Let us repeat it.

The brochure asks the question:

Can you get Medi-Cal?

If you are pregnant, you may get Medi-Cal even if you are not lawfully in the United States, even if you are not a U.S. citizen, even if you have applied for amnesty, even if you were denied Medi-Cal in the past.

The brochure also states, "If you are not lawfully in the United States or have applied for amnesty, Medi-Cal will not report you to the INS." Medicare will not report you to the Immigration and Naturalization Service.

Now, do you believe that this brochure might encourage illegal aliens to cross our borders for prenatal care?

Governor WILSON. Well, I would have to speculate on that. I would assume that it would, but it is not an authorized directive.

Chairman BYRD. Well, that is not the point.

Governor WILSON. Yes; I have not seen this.

Chairman BYRD. Let us have the Governor see this. It is Baby-Cal, 1993, California Department of Health Services. This is not a private advocacy group?

Governor WILSON. No, sir; it is not. It is a program that is available to residents of California. And the piece that you have here is not authorized.

Chairman BYRD. Well, how does the State agency get away with that if it is not authorized?

Governor WILSON. Well, that is a very good question. It is not authorized. It is unknown to me that it has been distributed. And it is not an authorized distribution, nor is the information accurate. Because, in fact, that is a program that is restricted to State residents.

Chairman BYRD. Well, it does not say it is restricted to State residents. It says:

If you are not lawfully in the United States, can you get Medi-Cal?

If you are pregnant, you may get Medi-Cal even if you are not lawfully in the United States, you are not a U.S. citizen.

This is a State agency that is putting out this invitation to illegal aliens to share in the benefits of a program for which the people of California are paying taxes.

Now, also on this bulletin it says:

If you are not lawfully in the United States or have applied for amnesty, Medicare will not report you to the INS.

What is that but an open invitation to illegal aliens to come into the United States and take advantage of this program? The water is fine; come on in. That is what the agency is saying.

Governor WILSON. That is not what the agency is saying, Mr. Chairman. That is unauthorized. I do not know where it came from. I would not argue with your inference because that is a reasonable inference. But it is not authorized. There is nothing more that I can tell you than that.

Chairman BYRD. Well, if it is not authorized, that was 1993, it must have cost the State a lot of money. Why would not somebody know that that money was spent on some illegal aliens?

Senator FEINSTEIN. Mr. Chairman, would you yield on that point for a moment?

Chairman BYRD. Yes.

Senator FEINSTEIN. This might be useful. In 1992, my daughter gave birth to a baby. She had a difficult pregnancy and was hospitalized for a month. I was visiting her very frequently. The nurses there told me that people came to this country for Medicaid, to give birth to a child, to gain citizenship for the child, and then return to their own country.

When I became a Senator, I went back to that hospital to the administrator. I asked him to do an investigation, to give me those figures. I never got them.

I then met with the hospital conference. They all told me, yes, that does go on. I asked them to give me some substantiation, and they have never produced it.

The problem here is that there is something going on, I believe, in California, in that respect. But you cannot get—at least I have not been able to get—the precise documentation from hospitals. And I suspect that the Governor may be told one thing while another thing is going on. If you talk to the rank and file in the hospitals, they will tell you that this practice, in fact, is going on.

Many people reportedly get on planes coming from Asia, get on Medicaid, give birth to their children, get citizenship, and return.

Chairman BYRD. Governor, if you would respond.

Governor WILSON. That is correct. And what we have found is that there is a great deal of Medi-Cal fraud going on. And there are active efforts underway between the State department of health services and the counties to try to combat that Medi-Cal fraud. And, in fact, there is State law that makes that fraud a violation of law.

But you are absolutely right; there are people who are guilty of it and who are conducting it.

Senator FEINSTEIN. May I make one other comment?

Chairman BYRD. No; not on my time, if I may.

Were you not aware, Governor, and I believe you have indicated that you were not aware, that your State health department was putting out this information in Spanish as well as in English?

Governor WILSON. Mr. Chairman, it is not authorized in any language.

Chairman BYRD. Well, the point is that California has put out literature—a California State agency has put out literature inviting people to evade Immigration—come on in, here is what you can get. You can get this kind of assistance. You do not have to be a citizen.

Governor WILSON. As you are aware from the earlier conversation that we have had, in 1991, we directed a county to discontinue that. Clearly, it is not the policy of the State of California. I cannot say where this came from. It is not authorized. It is also inaccurate information. Because that program is not authorized for non-residents.

Chairman BYRD. Well, it is costing somebody some money.

Now, let us take a look at 1993. Well, let us take 1994.

In 1994, Baby-Cal, this pamphlet says: 1994, California Department of Health Services. Now, in this pamphlet, there is no reference to illegal aliens in the sense that we have shown as presented by the 1993 Medi-Cal literature. Why was it taken out? Why was it removed?

Governor WILSON. Senator, in the first place, if the 1993 thing, or what you represented to me as the 1993, is legitimate, I assume that an unauthorized publication may have been detected. And because it was unauthorized, it was discontinued.

Chairman BYRD. When you say unauthorized, what do you mean? Authorized by whom?

Governor WILSON. I mean not authorized.

Chairman BYRD. By whom?

Governor WILSON. Not authorized by anyone with the authority to do so—anyone who is authorized to set policy. It is not the State policy.

Chairman BYRD. Well, it is being published by a State agency. It so states on the literature.

Governor WILSON. I do not know what the custody of the document was, and I am not really sure what the point of the question is.

Chairman BYRD. The point of the question is, Governor, not to grill you on specific programs, but to make the point that States, as well as the Federal Government, must act together to reduce the attraction of the United States for illegal immigrants. The Federal Government is responsible for the border, but the States must help to enforce the laws, to deter, detect, and deport illegal aliens.

Governor WILSON. Mr. Chairman, if that is the point, then we do not have an argument. Because, in fact, California has undertaken by law a number of explicit steps to discourage illegal immigration. But I would have to tell you that those steps by the State, frankly, are small potatoes. What is really necessary is Federal action. That certainly does not excuse the State from doing everything that it should to discourage illegal immigrants.

But what is attracting them are Federal programs—programs mandated by the Federal Government, largely paid for by State taxpayers, and the failure of the Federal Government to secure the border.

Chairman BYRD. Well, I think it also demonstrates that there is a loose cannon out there somewhere. And it must be your California Department of Public Services, because it has disseminated this publication. And to the extent that that invites illegal aliens to come to California, then, to that extent, your taxpayers are suffering. It is a burden on the State financially. And somebody ought to look at this department of health services and see why this has been going on.

Also, you should make it clear to State employees that they ought to report illegals to the proper Federal authorities, it would seem to me. I do not think you can come here, Governor, and hold the Federal Government responsible for its mandates and for the burden that it places on the State of California when your own State department of health services puts out publications, like I have read here, inviting illegal aliens to come to California, telling them that they will not be reported.

Governor WILSON. Mr. Chairman, Federal law, as I understand it, prohibits the States from reporting illegals to INS.

Chairman BYRD. You have a State law, I believe, that prohibits that.

Governor WILSON. No; this is Federal law, sir. Federal law prohibits the reporting of the illegals to INS by those who are giving them Medi-Cal services.

Chairman BYRD. Federal law provides for emergency services only.

Governor WILSON. Well, the emergency services under Federal regulation has been interpreted as providing maternity care.

Chairman BYRD. No, no.

Governor WILSON. Yes.

Chairman BYRD. No; emergency services only.

Governor WILSON. OBRA '86, Mr. Chairman, which is the authorization for the health care that is provided to illegal immigrants, provides for maternity care.

Chairman BYRD. Maternity care?

Governor WILSON. Yes.

Chairman BYRD. Maternity care is a very restrictive term in connection with that law. It does not include prenatal care, for example.

Governor WILSON. No; I did not say that it did. I say that it includes delivery, obstetrical care, and postnatal care.

Chairman BYRD. It includes only emergency medical services, which might include a day or two after delivery. But it does not include prenatal care. And that is what your department has been telling people.

Governor WILSON. No; we have not been.

Chairman BYRD. That they will get prenatal care. But then your department sought to have the Federal Government participate in the costs.

Governor WILSON. Mr. Chairman, I think where you are confused, if I may say so—

Chairman BYRD. No; I am not confused.

Governor WILSON. Is that the State has, in fact, had a program of prenatal care, which is a State-only program. We are not talking about that being part of Medi-Cal or part of what is being offered. Perhaps that is where the confusion arises. And that program is going to be terminated in this budget. And I agree with the point that I think that it should not have been offered in the first place. It was offered before I got there, and I have advocated its repeal.

Chairman BYRD. S.B., Senate bill, 175, that bill, has it been repealed?

Governor WILSON. It is the one that I just mentioned.

Chairman BYRD. And what did you say about it? Has it been repealed?

Governor WILSON. It is being repealed in this budget; I have sought its repeal, and it is going to be repealed in this current budget.

Chairman BYRD. Your department of health services sought, through California State Plan Amendment 92-04, to receive Federal remuneration, in part, for prenatal care.

Governor WILSON. Yes, sir; because, in fact, the program was in effect and the Federal Government was providing that to the State of New York that was doing the same thing. We thought that if they were doing it for one State, perhaps they would do it for another State offering the same program. That is not, in my judgment, an argument for maintaining the program, nor have I advocated that it be maintained.

To the contrary, we have advocated its repeal and it is being repealed, or at least defunded.

Chairman BYRD. Your State agency sought Federal matching funds to provide prenatal care to certain pregnant women while it had a program inviting them into the State, indicating that they would not be reported to the INS. It sought Federal matching funds to provide prenatal care, which they are invited into the State to partake of, including those who are undocumented immigrants who have deliberately evaded the Nation's immigration laws.

The U.S. Department of Health and Human Services rejected the claim, pointing out that the New York case to which the State agency alluded applied only to New York State, only to the second circuit. And California is in the ninth circuit. Therefore, the claim was rejected.

What do you propose to do, Governor, when you go back about your welfare department or your health services department and the literature which it has put out, which has increased your financial burden in the State? What are you going to do? Are you going to check into that?

Governor WILSON. Mr. Chairman, I will check into it. It appears from what you have said that if there was something authorized or, rather, unauthorized that was published in 1993 it has been corrected.

Let me make what I think is a far more relevant point. OBRA '86 was an improvement in one respect. It provided for Federal participation. At least one-half the cost was born by Federal taxpayers.

Let me point out what I am sure must be obvious. Physicians become physicians because they wish to provide health care. They are sworn to a Hippocratic oath to help people in need of medical care. They would do so in the absence of any Federal program, but the failure of the Federal Government to secure the border, which has allowed hundreds of thousands of people to come into the country and present themselves in hospital emergency rooms is what is, in fact, causing the problem.

And if there were no OBRA '86 then we would be confronted, as we were before that law was on the books, with the unhappy circumstance that by virtue of responding to the humanitarian impulse that prompted them to become physicians. And in response

to the Hippocratic oath, doctors do indeed give emergency medical care.

That is no reason that they should be stuck for the costs, nor should their hospital, nor should the people of their State have to pay any portion of the cost of that care because, in fact, it is occasioned by a failure to exercise what is exclusively a Federal responsibility.

And so what I think we really ought to have, and I understand it is not the province of the Appropriations Committee, rather that it would be the province of the policy committee, I really think there ought to be a change in the law that permits physicians and other health care providers to be able to directly bill the Federal Government for the full costs of the care. But, again, the basic problem is the failure to secure the border.

Chairman BYRD. Well, I have indicated my agreement with you with respect to the need to better secure the border. You and I both voted for OBRA '86, and we both voted for IRCA '86, I believe.

Governor WILSON. I think we were right both times.

Chairman BYRD. I would like to go into other questions concerning the mandates that you referred to, but I have exhausted my time and more.

I would simply suggest, Governor, that we lower our voices just a little bit with respect to the fault of the Federal Government and its mandates, and take a good look-see at what our own State agencies are doing to see if they are enforcing the law and to make sure that they are not disseminating unauthorized literature that is an invitation, an open invitation, to come across the border no matter how well it is guarded.

Mr. Hatfield?

Senator HATFIELD. Thank you, Mr. Chairman. I want to thank the Governors again for their very fine contribution.

Let me set the framework within which this committee is operating at this moment, and that is the President's budget before us. We are considering the account for the activities of INS which deals with the subjects that you have been discussing this morning. That figure is \$2.1 billion for 1995. That represents about a \$368 million increase over fiscal year 1994 to fund a new immigration initiative targeting illegal immigration.

Now, this committee gets oftentimes emersed into the calculations of expenditure requests by the President and what that represents in comparison to current levels of services. We have a lot of nomenclature Governor Wilson and Governor Chiles have certainly been familiar with.

We really struggle at times to translate those dollars into programs, their effectiveness, and whether or not they are programs that are out of date and so forth, and we are not the authorizing committee as you well know.

The President last April, for instance, added another component to this program and that is \$350 million to help the States to pay for the incarceration of those illegal aliens who have been convicted and sentenced to jail.

I think my question would really be to any one of you or to all three of you. And that is, will you give us some assistance on how you consider the current level and the addition to 1995's level of

spending in dealing with this problem through the programmatic approach that you see implementing not just on your borders but throughout the whole program of education, medical attention, and so forth?

In other words, what figure is going to correct the problem that you have brought to us, or have you any calculations along that line?

Governor WILSON. Yes, sir; the charts that I presented make clear what we calculate the cost to be, and there is some dispute with the Federal Government about the validity of the most recent census figures upon which we have relied.

There is not, or should not be, any dispute with respect to either incarceration, since those are determined by INS holds, nor in the case of health care because, again, that is documented by the form, the application that the applicant for the health care brings with him or with her. But we know, we think, very well what the costs are, and we have indicated what those costs are.

Senator HATFIELD. Is \$350 million enough?

Governor WILSON. In the case of incarceration, the \$350 million is not enough. It is a step in the right direction. We are pleased to see the step being taken, but the Congressional Budget Office has indicated that it is their estimate that to deal with the requirements of all the States nationwide would cost \$600 million. So, the \$350 million is slightly more than one-half.

Senator HATFIELD. Governor Chiles?

Governor CHILES. Well, the \$350 million, as the Governor said, would certainly help. It is not enough. But if you said it is a Federal responsibility to see that we institutionalize an illegal alien, it is not a State responsibility if they are here illegally, then I think your number is \$600 million if you start talking about construction costs.

You are dealing with a new crime bill. That new crime bill does talk about some additional money for Federal prisons or for prisons. Now, if they were assigned this task, you know, then you would really begin to have some relief.

The \$350 million would be a tremendous help, a tremendous help, but it would not do it. And we think that, you know, this clearly should be a Federal responsibility.

Governor SYMINGTON. Senator, the way we have approached it, our lawsuit calculated approximately \$120 million of expense for incarceration for approximately 1,800 illegal immigrants.

Senator REID. That is just in Arizona.

Governor SYMINGTON. That is just in Arizona, yes, and our inmate population today is approximately 16,500 to 17,000 individuals, so it is a fairly significant portion of our inmate population. So, that is one issue.

But the other issue we are looking at right now is that when I hear the words, "better secure our border" from the chairman, I agree. But I am not so sure we are securing our border at all when we have 18,000 to 20,000 illegal immigrants apprehended on a monthly basis in southern Arizona, and those are the people that they can handle, and they cannot handle that number well. And there are many more following along behind or aside that we miss.

So, we are really in desperate shape in southern Arizona at this time, and I am deeply concerned that the proposed 950 person addition to the Border Patrol, that that may not be enough because, remember, we have a 300-mile-long border in our State. I think, Governor Wilson, your stretch is about—how many miles is your border?

Governor WILSON. About one-half of that.

Governor SYMINGTON. About one-half of that.

Governor WILSON. But interestingly enough, about one-half of all the illegal immigration that occurs, one-half the illegal entry estimated by the Border Patrol, occurs within a 15-mile stretch. And for us the biggest impact is in the Nogales area. And we are really desperate at this point, and we are anxious to see a significant and early increase in manpower to help us control this flood of illegal immigrants.

Senator HATFIELD. Gentlemen, your testimony this morning has focused on reimbursement. Your suit against the U.S. Government relates to reimbursement for these mandates.

Do you have in your suit listed all of the mandates to which you are asking such contention for reimbursement? I think it would be well to get for the committee records all of the mandates that you see in reference to this issue.

Second, have any of you thought, in terms of those mandates, from the standpoint of changing the legislation relating to those mandates—perhaps we ought to go back and review those mandates from the legislative point of view as well as from the reimbursement point of view.

Governor CHILES. Senator, I would like to speak to that because I hear now that there are people in regard to specific pieces of legislation, namely the health legislation, saying that, we will cut these benefits, none of those benefits. There is a major, major dilemma for the States in that regard.

If you did not have a mandate that I had to provide education for an illegal alien, I would still feel that I needed to do that in Florida. If they are on my streets, if they are going to grow up in my State, I want to educate them. I have to. My people will be safer if they are in school than if they are on the streets.

Juvenile crime is the most rapidly growing part of violent crime in my State, and it is in the 11, 12, 13 years of age group in which it is occurring.

If someone comes to my State and has tuberculosis, is HIV-positive, or has any of—we have got some weird venereal diseases that no one has ever heard about, that come in, or other infectious diseases, I want to treat those people because I have to do it to protect my own citizens.

And so, you know, if you really look at this, no, I do not want to give a light that says come here for your health care at all. We want to see that they do not come. But if they come, if you just say, well, the Federal Government is not responsible for that—what we are really saying is for what we have to do as a result of or in the absence of Federal policy, a State should not have to bear that burden. It should be a national burden that we bear.

Senator HATFIELD. Thank you.

Governor WILSON. Senator Hatfield, I think your question is a very good question, and I touched on it in my direct comments. Let me touch on the elements of it again because I think they are quite different and, I think, they really do require careful attention.

I will not repeat what I said about health care and the Hippocratic oath. The fact is that I think the remedy there ought to be that there be no guaranteed programs, as currently there are, but that there should be a provision made that when there is a genuine emergency because someone has gotten through, that the provider of that care not be stuck with the costs and be reimbursed by the Federal Government directly for the full costs.

In the case of incarceration, there is no Federal mandate. There is simply the mandate of common sense, the duty that States have to protect their citizens against people who are dangerous, and in this instance those who are the predators happen to be people who have entered the country illegally.

Incidentally, one of the things that we need to be concerned with in connection with your question, and, in fact, in connection with all that we are talking about, when we speak of the necessity to really secure the border, that is underscored by the fact that deportation as it currently exists is not a remedy when you have as porous a border as we are faced with.

Perhaps the best indication of that is that a study by Los Angeles County found that 80 percent of the deportable immigrants in the Los Angeles County jail in a single year who were discharged to INS to be returned to their country of origin under deportation proceedings were rearrested within Los Angeles County within a year; 87 percent were rearrested within Los Angeles County, and 80 percent of all who had been deported were rearrested somewhere within the State within a year. That, I think, tells you how porous the border is.

With education, the argument that Governor Chiles makes is one that I think divides Governors, and I can certainly appreciate the concern that he has. On the other hand, it is currently Federal policy, Federal law indeed, to require of a job applicant that he or she provide proof of citizenship or at least legal residency in order to avoid any sanction for the employer.

If it is proper policy and if it is law to require the applicant to make that proof, then it seems to me it is not out of line to seek the same proof from the same person in a somewhat different category, a different capacity, as the parent of children who are, in fact, in the country illegally.

It is certainly not that we are lacking compassion, but frankly we are now being compelled to spend so much, in the case of education it is \$1.7 billion a year in California; that we are unable to do for our own children the things that we would like to do to improve the quality of education.

We could put a personal computer on the desk of every fifth grader, and bring 90,000 more poor children into the preschool program. We could hire an additional 35,000 teachers—not some but all of those things for the money that we are spending each year to provide education to children who are acknowledged to be in the country illegally.

Senator HATFIELD. My time, I know, has expired but, Mr. Chairman, I think like so often we are pushed with the immediacy of the tasks to deal with these matters, and I am not sure that any of us addressed the root causes of what brings illegal immigrants to the United States.

Governor Symington, you referred to NAFTA as one of those, perhaps, that in the long term might reduce or diminish it because of raising of the standard of living in Mexico, the poorer State. But I think there are probably multiple magnets that draw some people to this country.

Mr. Chairman, I thank you for the time to ask questions.

Chairman BYRD. Thank you.

Senator REID. Mr. Chairman, I got here a little late. What is the procedure going to be for this round of questions?

Chairman BYRD. We are going in the order of appearance.

Senator REID. For how long?

Chairman BYRD. Ten minutes each.

Senator REID. Thank you.

Chairman BYRD. Senator Hollings was here next. He is not here now. Incidentally, he had a hearing of his own that he had to conduct today. Senator Feinstein?

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

Let me just mention one quick thing in the beginning. The President has requested \$350 million for the cost of illegal alien incarceration. It is my understanding that the House Commerce, State, Justice Subcommittee just merged the criminal alien funds into the Byrne Grant Program. That is bad news.

It essentially means that, for example, California, which would have gotten \$200 million, will get just \$48 million. So, I think very clearly, when that legislation comes here, Mr. Chairman, we will have an obligation to make that change.

Second, it is my understanding that another subcommittee here, which controls that money, may have difficulty in securing these funds. That is what my staff tells me.

So, we have a lot of work to do in this committee to see that that \$350 million gets out and gets fairly apportioned.

I think the point that the Governor has made that is excellent—and I want to thank him for it because I think he is right—the time has come to enforce our borders. I know we can do it.

Last year, this committee, thanks to our chairman, and to Senator Hollings and we got an additional \$40 million for 600 additional Border Patrol. Two weeks ago, I was on the San Diego border. That border, where the Border Patrol are outmanned 60 to 1, and which was 50 percent effective last year, is now 60 percent effective. The night I visited, they arrested 2,000 people coming across the border, of which they estimate 1,500 got through.

And if that happens day after day, night after night, that is the very real problem.

The fact is that the annual cost of a Border Patrol agent is approximately \$85,000. The cost for 700 agents in each of the next 3 fiscal years per year would be \$59.5 million.

Governor Wilson, you mentioned the border crossing fee. I am very hopeful that we can put together a bipartisan bill which will provide 2,100 additional Border Patrol agents over the next 3

years, which will fund it with a border crossing fee, which will double the penalties for illegal smuggling from 5 to 10 years, which will produce a counterfeit-proof work identity card, which will eliminate Federal cash benefits for illegal immigrants, and which will include a 2-year pilot interior repatriation program.

Governor Wilson spoke of the problem of people doing time, being sent home, and crossing the border immediately to be rearrested. We would like to try, some of us, interior repatriation, which would create at least some deterrent to coming back across the border. I am hopeful there will be members in the other party interested in supporting the bill that I have introduced. I am absolutely convinced that we cannot get the votes to do what we need to do to enforce the border unless we have bipartisan support.

And the question that I want to ask you gentlemen is: Would you help us do that? We have bills—Senator Reid has a bill, Senator Lautenberg has a bill, I have a bill. We need bipartisan support. And if you can be helpful in getting that support, I think that we can pass some legislation.

If anyone would care to respond, I would appreciate it.

Governor WILSON. Senator, we are delighted and grateful for the efforts being made by you and Senator Reid. As you see, this is a bipartisan panel. This is a multistate, bipartisan coalition. It includes Democrats and Republicans.

What we have in common are States that increasingly are being required to spend so much to provide services to illegal immigrants that we cannot provide adequately for the needy citizens who are legal residents of our States.

But I hope that your border crossing fee passes. You mentioned that the cost of 700 agents is I believe you said \$54 million or \$59 million.

Senator FEINSTEIN. \$49.5 million a year.

Governor WILSON. I could not help but be struck by the difference between that number and what it is costing annually for the people of California to provide some \$400 million in health care as our share, not to mention the Federal share; some \$400 million for incarceration, not to mention what is being spent by local taxpayers for the jail population which is not quite the 14 percent of our prison population comprised by illegal immigrants; and the \$1.7 billion that we are spending upon education.

Those numbers—obviously, the \$3.2 billion that we see as frankly a conservative estimate of what we are spending annually on illegal immigrants dwarfs the \$59 million. So, I happen to think that you are right in seeking to do what you are trying to do, and that the vehicle that you have chosen—the border crossing fee—while it may impose more upon our fellow Californians in a proportional way than upon other citizens of the United States, I hope it passes.

I think that it makes sense, and there is an urgent need.

Senator FEINSTEIN. I want to respond to Governor Wilson by saying that the border crossing fee is not an isolated thing. It is simply a methodology to fund a program. The program is spelled out in the bill. And it is a rather comprehensive program, aimed at enforcing our borders, stopping illegal immigration, encouraging the State Department. We have a very real prisoner deficit. We house many more prisoners in our jails that come from other countries il-

legally than other countries house in their jails from America. And we need to stop that.

So, in order to do something positive, we need to find a funding method. And I think that people who use the border should pay for it, just as people who use bridges in this country pay for those bridges.

I come from a city with two bridges. One has a \$3 toll; one has a \$1 toll. People work every day. They come in from the suburbs, they pay that fee. A border fee is a methodology to fund a very extensive program that is aimed at controlling illegal immigration. I think Governor Chiles pointed out that there are about six or seven States that have the problem, but this body has many States that do not have the problem. Therefore, it is extraordinarily difficult to move a bill.

The big States have come together—and by big States I mean those that have an immigration problem—and formed an immigration caucus. And we are trying to work together on a bipartisan basis on some of these things.

But I think you gentlemen can and should begin to call other States that do not have the problem, that tend to look at this very differently, look at it very ideologically, as opposed to practically to tell them that we need their votes and we need their help.

I want to thank you, Mr. Chairman.

Chairman BYRD. Thank you, Senator Feinstein.

Senator Domenici.

Senator DOMENICI. Mr. Chairman, I do not know that we had opening remarks. Did we have opening remarks earlier on?

Chairman BYRD. We did.

Senator DOMENICI. I wonder if you might, Mr. Chairman, indulge me for—I know you are going to turn that on for 10 minutes.

Chairman BYRD. It is already turned on. [Laughter.]

Senator DOMENICI. Well, I hope it is new. I do not want just what was left from Senator Feinstein.

Chairman BYRD. You are using a lot of time right now.

Senator DOMENICI. Well, I wondered if you would give me 2 minutes for an opening statement.

Chairman BYRD. Well, you have a very fair and merciful chairman. I would suggest you get on with it.

Senator DOMENICI. All right. Thank you very much, Mr. Chairman.

First, let me say to you, Mr. Chairman, I appreciate your calling the hearing. I am absolutely amazed at the condition that we are in. To my knowledge, this is the first hearing of this type where an Appropriations Committee that has limited ability to solve this problem brings before it in a sense the very broad spectrum of what is really going on.

I want to make a couple of points. The border of the United States is the stepchild, and has been the stepchild, of every President since I have been a Senator—for 22 years. No President cared much about the border. I mean, they got excited about NAFTA—President Bush and this President did. But when it comes to spending money on the border, it is as if to say let us do a little bit, let us keep everybody quiet.

In fact, Senator DeConcini, who is on the floor right now, without executive help, proposed the only border improvement program we have ever had. I was his ranking member. In an appropriation bill, we put in a \$357 million authorization to build some facilities.

Now, last year, I put in my subcommittee, Commerce and Justice, which is going to have to pay for all of this border business you are talking about—that is Senator Hollings and Senator Domenici—I put in the \$45 million that my good friend, the Senator from California, is alluding to for the Border Patrol. When it got to full committee everybody supported it and so did you, Senator. And I am very pleased for that support.

I did not think it was quite fair the way it was handled, because it was turned into a help California only proposal, and almost all the resources went there, but that is fine. We are still short everywhere. And, Governor Wilson, we were very glad to give you, for perhaps the first time, a little more out of the pie than maybe you were entitled to if we were trying to help everybody.

Now, my last observation, and perhaps only this chairman can do this, I think it is time for this President and this Congress to decide that they want to develop a real policy regarding the border and regarding immigration. We will never, never, never get it done under the piecemeal approach that we have got.

Let me say to my good friend, the Senator from California, if we pass your bill, there is absolutely no assurance that we will appropriate the money for the program.

Why?

Because we may not get an allocation of enough program authority, which is not directly related to the new income that comes in. Let me give you an example.

The President belatedly asked for \$350 million. And rather than thank the President for that, I thank you three. I think the fact that you sued the Federal Government and made noise brought the President to the party. But let me tell you this. There is not any money to pay for it.

Let me tell you how he is going to pay for it. A new fee on the Federal Communications Commission to pay for immigration, when we just put a fee on it last year—a brand new one. It is just not going to happen—if we could, it would be wonderful—\$282 million out of the Federal judiciary is the rest of the payment for this program. I do not think that is going to happen either.

So, while the problem is there, we continue not to address it in a comprehensive way. INS is in one appropriation, Customs is another appropriation. So, frankly, I am not very sanguine that we are going to do much more than a piecemeal approach.

However, Mr. Chairman, I noted your questions about the involvement of States in promoting illegal immigrants. I tell you we do not have the whole answer here today. You raised some very good points. But let me just share with you—and maybe you can comment on this, Governors—in my State, I am told that for housing under HUD, neither the HUD officials or the State officials can ask whether an applicant is an illegal alien. They cannot ask the question.

Now, I do not understand that. Maybe that is part of the reason that California is doing what it is doing. It may not be able to ask

the question or turn the people in under the questions propounded by the chairman. I do not know that. But I suspect that it is a very, very mixed up situation in terms of identification across this land.

Senator REID. Would the Senator yield?

Senator DOMENICI. Yes.

Senator REID. In the earthquake bill we changed the law so that they now are mandated to ask those questions.

Senator DOMENICI. Just recently?

Senator REID. Yes.

Senator DOMENICI. In what kind of program, Senator?

Senator REID. We did it with HUD, FEMA, and SBA.

Senator DOMENICI. Well, I hope that that is getting down to the agencies, but that is still not for all of them.

Let me make just two more points and then ask you a couple of questions. My last observation has to do with your definition of who we should reimburse you for with reference to the prisons. And I submit the fortunate one in the three is Governor Chiles. Because there is no question that in the State of Florida, under the law that we passed, where we are supposed to reimburse, that law says we are supposed to reimburse Florida even for Cuban foreign nationals who are not illegal. That is the only State where we are supposed to have the broad definition. In all other States, it is illegal aliens.

But in Florida it is illegal aliens and foreign born, probably to do with the Cuban situation. It came on when we had the problem with the——

Governor CHILES. The marielitos.

Senator DOMENICI. Yes; Castro let all of those out of prisons, and you were going to be overwhelmed. I would like to know whether you think we ought to reimburse you for more than illegal aliens, and should it be foreign born, even if they are here legally, and if so, why?

That is a very big difference in the amount we owe you if we are going to reimburse you, and I am for reimbursing you. I do not know where we are going to find the money, but almost one-half of the occupants are not illegal aliens, the ones you are counting. They are foreign born, but not illegal, and in the law we passed that you alluded to, Mr. Chairman, that we all voted for, it says, reimbursement for illegal aliens, except for Florida, and I will stop in a moment and ask you to give us an answer on that.

I am also hopeful that somebody on this committee—it would probably take you, Mr. Chairman. I do not know if you want to intervene. But we are going to pass a new crime bill, and I am looking at the allocation of the \$30 billion trust fund which you created. It is a very interesting phenomenon. It is the only one around in terms of our budget process.

I am not sure that today you are as strongly in support of that trust fund as you were when you did it, but nonetheless—I am not sure I am. I supported you wholeheartedly, and I am not sure I am, but let me tell you all very little of the \$30 billion is going to go to border needs—very little. In fact, \$100 million a year increase out of \$30 billion.

On the other hand, \$9 billion is going to go to community policemen, \$100 million a year for the border activities that you were

talking about, my good friend from California. I do not think we are going to make it if the \$30 billion does not have something in it for the borders, which is part of the crime problem of this country, without any question.

Now, Governors, would you just answer that one question on who do you seek reimbursement for? Do you seek reimbursement for foreign borns, or do you seek reimbursement for illegal aliens?

Governor WILSON. At this point, we have entered a claim in our lawsuit only for those who are illegal immigrants. I think, Senator, that you make a very good argument, and there is really an analogy, if I may say so, in terms of an existing Federal law as it relates to refugees and the obligation of the Federal Government to at least be responsible for benefits provided to them in the first 36 months of their stay in their new country.

Senator DOMENICI. Governor Chiles.

Governor CHILES. Any alien, illegal or not, or basically, that commits a crime forfeits their naturalization status. I think that really should be the test. For any crime that would allow the person to be deportable, which is certainly any felony, then that person is not entitled to be in the country. They are deportable. That ought to be the Federal responsibility to take care of them until you deport them.

Governor SYMINGTON. Senator, we are asking for reimbursement for incarcerated illegal immigrants, and there are 1,800 in our system.

Senator DOMENICI. Mr. Chairman, could I make two other observations, because I do not get a chance in public to address this kind of issue in your presence, but I would say to you that there is a risk in the crime bill that a new entitlement program would be created for the immigration part of this, and I would hope that, consistent with your approach to this, that you would not support that. I do not think the appropriators want to have another new mandatory imposed as part of this program.

My last observation is that—

Chairman BYRD. May I say, Senator, I am not committed to support the conference report. I want to see what it looks like, and I have indicated to our chairman, Senator Biden, some things to that end.

I am well aware of what the Senator from New Mexico is saying, and I, too, am concerned about that. I believe that Senator Hatfield and I and the Senator from New Mexico and Senator Hollings wrote a letter the other day—

Senator DOMENICI. Right.

Chairman BYRD [continuing]. expressing our concern.

Senator DOMENICI. And I was pleased to join it. Thank you very much, Mr. Chairman.

Chairman BYRD. Senator Lautenberg.

Senator LAUTENBERG. Thank you, Mr. Chairman, and I thank our former colleagues and Governor Symington for being with us this morning. The subject obviously is one that I think must be addressed.

New Jersey does not have the same border opportunities for people to come, but they get there, and frankly I am interested, just as interested in having undocumented aliens dealt with in a fair

but specific way, and I saw a film, Governor Symington, on TV just a few nights ago in which a van was stopped by policemen from one of the communities—is it Ogalassa? I am not sure of the name of the town in Arizona. It starts with an O. It is not Ogala, it is Ogalassa, something of that nature. But anyway—you do not know it? Then I obviously misspelled it totally. It is in Arizona.

Governor SYMINGTON. I am thinking about it.

Senator LAUTENBERG. It is a town in which also—

Senator REID. You probably mean Phoenix.

Senator LAUTENBERG. I saw some film about a sewer pipe, a huge sewer pipe.

Governor SYMINGTON. That is Nogales.

Senator LAUTENBERG. Well, that was close enough. You should have known that the first time.

Governor SYMINGTON. Nogales.

Senator LAUTENBERG. And a couple of people had picked up a van with 20 people who were crossing the border, obviously illegally.

They put in a call to INS and said, we have got 20 people here in this van. They had the guy get out with his hands in the air and put cuffs on him, and INS said, we do not have anybody to send down to take over. One cop turned to the other and he said, we have to let them go, and off they went, headed north. It was pitiful. I mean, here the first interception was made.

So while we do not have the same problem, we certainly have the same concerns, and I talked to my good friend Senator Domenici as he walked out the door, who is one of our really distinguished U.S. Senators.

He talked about the inability to fund these initiatives, but the chairman of this committee knows very well that when we put bills out there—and I am chairman of a subcommittee of Appropriations, as is my good friend from Nevada. When we put those bills on the floor, along come the cutters who just cut anything—cut anything, except when it comes to something like this.

Then they want to stand up and say, hey, we cannot afford to do that, but yet when the chance to cut it in front of the public, it looks great. They want to cut INS people, they want to cut FBI people, they want to cut drug enforcement—no. But when you cut, cuts hurt, and you have to understand some are certainly deserved, but there are others that need attention, and when you take that broad brush, cut brush—Lawton, you know. You were chairman of the Budget Committee. It was a job I never wanted.

But I want to approach this in one very specific area, and that is to try to get our Government to negotiate treaties with other countries with whom we have contact to take back their prisoners and to permit the process to take place.

Now, there are some 58,000 purportedly illegals in the country, and I do not know whether an illegal is constituted, Governor Chiles, by the definition you gave, which is surrender of all rights that you had if you came in legally, if you commit a crime, but then there are the others who are undocumented altogether.

Senator FEINSTEIN. Those are in prison.

Senator LAUTENBERG. In prison, yes, incarcerated. New Jersey has its share. It is estimated that if we had to put in the capital

costs to house the roughly 500 people we have in jail it would cost us \$35 million capital costs, and some 25,000 per inmate to house, again the roughly 500, so we are talking about enormous costs, and these people have violated our laws twice, once by coming in here illegally, and then second by committing a crime, and we ought to send them back.

What would it mean if we could free up 58,000, or 50,000 beds in our prison system, when we have to talk about the capital costs we are trying to now get in place with the crime bill? It is an enormous burden. I would be happy to see us in the treaty exchange our prisons for theirs, our people who are held in their prison, commit to having them serve the sentence here, and vice versa, and I would ask you, how many—each one of you. I think Governor Symington mentioned the number of people in their prisons who are thought to be illegal, undocumented aliens. Do you want to restate that?

Governor SYMINGTON. It is 1,800 out of a total population of about 16,500.

Senator LAUTENBERG. Governor Wilson.

Governor WILSON. Fourteen percent of our entire prison population. This year, it is about 17,000. It will go up to about 18,000 next year, we project.

Senator LAUTENBERG. Governor Chiles.

Governor CHILES. We have close to 4,000—4,200.

Senator LAUTENBERG. New Jersey has only 600—500—but it is still a significant cost, and it is a burden, and if we had 500 free beds, it would make quite a difference.

We have one fellow who has come here from Cuba, part of the Mariel group, it is so violent it takes four guards almost constantly to watch him in his own cell, and when he is let out in the yard, he has to have—no one else can be in the yard. It costs \$100,000, estimated, just to keep this fellow here. It would be nice to trade him back. Unfortunately, we do not have much to talk to. What does it cost in each one of these cases? Your estimate is—yours, Governor Symington, was—

Governor SYMINGTON. Our total cost is about \$120 million a year. That includes capital costs and 2 years of operating costs. That is the figure in our lawsuit.

Senator LAUTENBERG. Senator Wilson.

Governor WILSON. For the prison population, Senator, it is about \$356 million. We have, I did not mention, about 12 percent of the wards of the youth authority, the jail population about 12 percent. We have not counted the jail population. That is a local expenditure, but it is very real. It is, we figure, all told—and this is operating, without amortizing prison construction costs—it is about \$.5 billion a year.

By the way, we have enough illegal immigrants who have been convicted of felonies to fill eight State prisons to design capacity.

Senator LAUTENBERG. Senator Chiles.

Governor CHILES. Several hundred million. Several hundred million dollars.

Chairman BYRD. Senator Lautenberg, let me interrupt, if you would allow me—if you would yield to me, the INS indicates that

Florida has 4,887 foreign-born nationals in its jails. I believe that is the same figure that you quoted, Governor Chiles.

Governor CHILES. Well, they are a little higher. I said 4,200, but that is counting some of the marielito prisoners.

Chairman BYRD. But they further break that figure down to 489 who are actually illegally in this country, so there is a wide discrepancy.

Senator LAUTENBERG. Ten percent. In New Jersey, I think we have more than that, and it is a far larger State.

Chairman BYRD. Here it is for New Jersey. It indicates—this paper is from the INS. It indicates that New Jersey has 69.

Senator LAUTENBERG. There is a different definition, Mr. Chairman. I think that if you are a criminal, that the illegal alien status does not necessarily correspond.

Chairman BYRD. Well, in the case of Florida, which is a unique case in some respects, as was indicated earlier, I might phrase the question—and I will not charge you with this time on this question. Does your estimate, Governor Chiles, for the cost of incarceration of criminal aliens reflect the number of foreign born in your jails, or just for those classified as illegal?

Governor CHILES. I think the totals, we are trying to include both.

Chairman BYRD. I think that is right. I think that is what you are doing, and it seems to me that INS separates these out and arrives at a figure, as I have indicated, of 489 in the jails of your State, the reason being that the law denies reimbursement for illegals.

Senator Lautenberg.

Senator LAUTENBERG. That is, Mr. Chairman, one of the changes we would like to see made in conjunction with our attempts to deal with the problem. I assume that I had the agreement from all three Governors on this legislation in terms of an ability to transfer these prisoners back to the countries from whence they came if we could negotiate treaties.

Governor CHILES. Absolutely.

Senator LAUTENBERG. Part of what we are thinking of doing in order to lend some force to this is for those to whom we offer foreign aid to maybe withhold some of that foreign aid until we solve the problem. Not to take it away, but to hold it in an escrow fund to lend, again, some enforcement tools with which to deal.

I also assume that whatever that significant number is, regardless of quite how it is defined by INS, the fact is that by all other yardsticks the numbers that we have been talking about seem to bear up, and that having that extra bed space in each one of your States—do any of you have surplus room in your jails?

Governor SYMINGTON. Senator, actually in our system we have about a 1,200-bed deficit.

Senator LAUTENBERG. A 1,200-bed deficit.

Governor SYMINGTON. And growing.

Senator LAUTENBERG. Do you know what yours is, Lawton?

Governor CHILES. We just added 17,350 additional cells to construct now. People are serving 52 percent of their time in Florida today. They were serving 30 percent when I became Governor. We have got a terrible deficit.

Senator LAUTENBERG. So the extra bed space would be of great value.

Governor CHILES. It is the equivalent of four new prisons, four new prisons in Florida.

Senator LAUTENBERG. Governor Chiles, you recently commuted some sentences for some Colombian prisoners in order to develop a process to have them deported. Would you feel better if they were transferred—and you have no guarantee that they are going to serve their—

Governor CHILES. The ones that we commuted are ones that INS has already processed. Their feet will never hit Florida's soil. They will go from the prison, to the bus, to the boat, and we have 2,700 that we have documented now that can go in that way. Now, those happen to be ones that are going back to countries, not just Colombia, countries that we do have treaties with that they will take. None of those can be Cubans now, but those are other nationalities.

Senator LAUTENBERG. Would it be better if we could guarantee that they are going to serve the balance of their sentences once they get back home?

Governor CHILES. It would be. Certainly, it would be better, but we will get them out of Florida, anyway, in that we have just conditionally commuted their sentence, and there also is a Federal crime that they will be guilty of, a felony if they come back. What we are going to demand if they come back is that the Federal Government incarcerate them on the Federal crime.

PREPARED STATEMENT

Senator LAUTENBERG. Mr. Chairman, I thank you very much. I would ask consent to put my opening statement in the record as if read.

Chairman BYRD. Without objection, it will be done.
[The statement follows:]

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Mr. Chairman, thank you for holding hearings on this important issue. As you know, there are thousands of criminal illegal aliens who are serving time in our state and federal prisons. They contribute to prison overcrowding, and they cost the American taxpayers up to \$1.2 billion each year.

These criminal illegal aliens have committed two strikes against America—they have broken our immigration laws in coming here and then they were convicted of crimes.

We need to solve this problem by sending criminal illegal aliens in our prisons back to their native countries to serve out their sentences. In the meantime, the Federal government should reimburse states for the costs of incarcerating criminal illegal aliens.

I have introduced legislation to get countries to take back more of their prisoners. My bill, called the Prisoner Transfer Equity Act, would direct the President to renegotiate existing prisoner transfer treaties and enter into new treaties to have countries take back greater numbers of criminal illegal aliens who are currently serving time in our Federal and state prisons.

While we have treaties with over 25 countries to do this, they are not working.

This legislation gives the President and the Secretary of State a stick to increase the flow of criminal illegal aliens back to their native countries. This bill requires the President to withhold up to 10 percent of a country's foreign aid if it does not make progress toward taking back more of its criminal illegal aliens.

If the country does not receive foreign assistance, then the President is authorized to use other approaches, like trade sanctions.

Let me be clear: the problem that we are confronting today is not legal immigration. I am the son of immigrants. I know first hand that immigrants have helped to make America great.

The problem is what to do with illegal aliens who have committed crimes in our country and are serving time in our Federal and state prisons.

They aren't here legally.

They have been convicted of crimes.

But punishing them costs U.S. taxpayers up to \$1.2 billion per year.

Why should they serve their time here rather than in their own countries—where their taxpayers must pick up the tab?

Nationwide, there are an estimated 58,000 convicted criminal aliens currently in our prisons—21,000 in Federal prisons and 37,000 in state prisons. Many of these convicted criminal aliens are illegal aliens as opposed to legal aliens. My legislation focuses on sending criminal illegal aliens back to their native countries.

At the same time, there are only 2,500 Americans serving time in foreign prisons.

This surplus of prisoners is not only a burden on the Federal prison system but the State systems as well. For example, the State of New Jersey has estimated that it costs approximate \$35 million in one time capital costs to build a facility large enough to accommodate the number of inmates and \$12 million a year in operational costs to incarcerate approximately 485 convicted criminal aliens, many of whom are illegal aliens, who are now serving time in its prisons.

Since 1977, the United States has entered into prisoner transfer treaties with over twenty-five countries. These treaties were designed not only to bring American citizens back here to serve out their time, but also to transfer criminal illegal aliens out of our prisons.

These treaties have not solved our problems. Since 1977: The U.S. transferred approximately 1,200 prisoners back to their native countries, but at the same time we took back 1,400 Americans serving time in Foreign prisons. This has only added to our problem of prison overcrowding.

My legislation would increase the numbers of criminal illegal aliens going back to their native countries by using the power of the purse—foreign aid—as a negotiation tool.

It's not fair to ask taxpayers to bear the total cost of jailing criminal illegal aliens who have broken our laws twice—once by entering or staying in our country illegally and again by breaking our laws.

Thank you and I look forward to hearing from our witnesses whose taxpayers must bear the burden of incarcerating criminal illegal aliens.

Chairman BYRD. Let me underline the fact that the legislation provides for reimbursement only for illegal aliens who are incarcerated.

Senator LAUTENBERG. Yes.

Chairman BYRD. Not for foreign born, necessarily.

Senator LAUTENBERG. Undocumented.

Chairman BYRD. A lot of foreign born are not illegal aliens, not even aliens.

Mr. Mack.

Senator REID. Mr. Chairman, I am happy to have Mr. Mack go, but I was here at 10 o'clock in the morning, and I left.

Chairman BYRD. I try to alternate, Mr. Reid, if I can.

Senator REID. OK, I will alternate, but I have been waiting a long time. I have got others waiting.

Chairman BYRD. I know you have. I know you have been waiting, and you have been patient, and I compliment you on that, but we do try to alternate, else I would hear from my left.

Mr. Mack.

Senator MACK. I would be delighted to yield.

Chairman BYRD. Mr. Mack yields to Mr. Reid.

Senator REID. I appreciate that a lot. I am sorry, Connie.

I would ask that my statement be made a part of the record that I gave.

Chairman BYRD. Without objection, it will be done.

Senator REID. I am here to announce publicly my support for these three Governors and their litigation.

I think the only way we are going to solve this problem is by having it forced upon the Federal Government to do the right thing. We can talk about increasing penalties, doing all this stuff—it is a waste of time. It will not happen. We created employer sanctions, taking away responsibilities of the Federal Government. It did not work.

Employer sanctions have been a dismal failure. It has created tremendous prejudice for people of color. Employers are afraid to hire people if their skin is dark, or if they speak with an accent.

We have relatively no control over the border. I have heard my friend from California talk about increasing our ability to control the border by 10 percent. I mean, that is for how many millions of dollars. We are going to have to recognize it. We are going to have to do a better job than we have done. I think the only way it is going to happen—I hope it is wrong—is by your winning your lawsuits and winning them big.

The amount of money that we are spending on these programs, and we should not be, are neglecting medical research that needs to be done in this country, our infrastructure is deteriorating. In fact, in our Interior Appropriations Subcommittee, we do not have money to do general maintenance in our parks.

Also people refuse to talk about legal immigration. We let in almost 1 million people a year into our country legally. I think we should cut these numbers back—I have legislation that says, to approximately 325,000 a year. Our problems do not begin and end with illegal immigration. I know that is a problem, but we also have to talk about legal immigration.

We must do something more than simply offer amendments to appropriations bills. Real reform is necessary. Yet, until we move on this, we will have no other alternative but to offer amendments to appropriations bills. That is why I am offering an amendment today. We are going to vote on it at 1:30. All it says is that we will take out of the bill that is up now, the Treasury Postal Service bill, a prohibition that they have in that legislation, a prohibition against Customs from playing any role in the collection of border crossing fees along the Mexican-United States border.

I hope I win the amendment, but the chairman of the subcommittee and the ranking member of the subcommittee, are opposed to taking that out of that legislation. To me, that is incomprehensible. On the Canadian-United States border we allow those fees to be collected. Why not on the Mexican border? To me, it is illogical, and really it is unbelievable to me.

We talk about understaffing. In Las Vegas, which has hundreds and hundreds of millions of people visiting there every year, including millions and millions of people getting there through international air travel, we have two INS agents—two, I repeat, INS agents—to take care of the international air traffic in Las Vegas. Now, how can they do it? That is a 24-hour town, 7 days a week. It does not take Christmas off. We have two INS agents to do it. Well, you can rest assured no matter how hard they work, they are almost wasting their time.

So, Mr. Chairman, I am glad you are holding this hearing. I am very despondent, for lack of a better word, about this Congress doing anything. I wrote a letter to the President April 1, and have not heard a word back, saying would you mind looking at my legislation and giving me some ideas of how I could correct it and maybe make it better. I mean, here it is, it is the middle of June, we are now in the summer, and I wrote this in the spring.

I have written letters to each of the Governors telling you I wanted to help. And I say this recognizing that I am very proud of my immigrant predecessors. My father-in-law was born in Russia, my mother-in-law is of Lithuanian extraction. My grandmother was born in England. I am very proud of that. I believe we have to have immigration. I think it is important to the country. I believe Jim Fowlers who wrote the book, "More Like Us". He has a chapter there about the importance of immigrants to this country. I believe in that, I believe it in the future.

But we have to get illegal immigration under control, and I think until we get it under control, we also have to take a look at legal immigration. And I appreciate very much, Mr. Chairman, your holding this hearing. It is the first time we have really been able to talk about—rather than theory, talk about money. That is what this is all about, it is about money, and we cannot open the borders to the billions of people around the world that want to come to the United States.

Last year we had coming into this country more people than live in the State of Nevada, more people than live in the State of West Virginia. We had about 1 million come illegally and more than 500,000 that came illegally that have not left, and they will not, it happens every year. Connie, I really appreciate your allowing me. I am late for something else.

[The statement follows:]

STATEMENT OF SENATOR HARRY REID

Sen. Reid: Mr. Chairman, I would first like to thank you for holding this hearing today. I am well aware of your great interest in reforming our current immigration policies and the hearing you have convened today is a testament of that fact. Those of us intent on reforming our current policies are much appreciative of your timely scheduling.

All of the witnesses testifying today have a tremendous interest in reforming our current policies. Whether it is the Governors of some of these states that are bearing the brunt of our failed federal policies or the members of the Administration who are diligently working to respond to this crisis, all have a lot at stake.

However, it is important to note that those who have the most at stake are the American people. We represent all of their interests. And thus, it is we who have the responsibility of addressing and resolving the many problems now facing our country.

The governors can only do so much to address the immigration related problems facing their constituents. And the Administration has done little to address the problem. It is though up to us, the members of Congress, to recognize that the system is in need of reform and that positive and meaningful solutions must be enacted if we are to resolve these matters. Because in the end, the immigration policies of the United States are inherently a federal responsibility. And we in Congress are charged with setting the laws of the land.

Mr. Chairman, there are many member of this body who have introduced immigration related legislation this past year. All of it is in response to the many problems we now face as a

nation, and the growing outcry from the American people. 90 percent of whom are demanding that some action be taken to tighten up our laws.

We had our first immigration hearing last week before Senator Kennedy's Immigration Subcommittee. It was a good opportunity for many voices to be heard and reform proposals to be discussed. It is clear that the momentum for reform is picking-up steam and we are moving in the right direction. All of us recognize that the best way to end the ugly immigrant bashing is not to ignore the problem and hope it disappears. But to address these issues head on, and push for the passage of legislation that benefits all.

However, we also realize that we are in the midst of one of the busiest legislative sessions in recent history. Health Care Reform, welfare reform, education, and comprehensive crime legislation are all being considered by Congress. Immigration issues are tied to each and every one of these measures. While we may not pass comprehensive immigration reform legislation this session, we are obligated to address and attempt to resolve these problems as they apply to all of these legislative initiatives.

There are some who may wonder how immigration is related to issues affecting appropriations. We need look no further than to the states that some of these governors represent to realize that our immigration policies are intrinsically related to our appropriations. Their testimony today clearly evinces nature of this relationship.

I first recognized this during our appropriation of benefits and relief for the victims of the California earthquake earlier this year. It was a generous appropriations but this body has

never failed to respond to the unforeseen tragedies that occasionally plague our great nation.

The issue then was whether the federal authorities responsible for the distribution of these benefits take reasonable steps to ensure that the recipients of non-emergency benefits were lawfully within the country. We were not concerned about the emergency medical assistance or temporary sheltering of victims of the earthquake. Everybody should be entitled to these life-sustaining necessities regardless of their lawful status. What concerned us was the receipt of generous long term benefits intended to allow victims to get back on their feet and get their lives back in order. There were limited funds and we realized that it was only equitable that we take steps to ensure that these benefits only go to those individuals lawfully within the country.

I offered an amendment that required the federal relief authorities take reasonable steps to ensure that the recipients of the benefits were lawfully within the country. It even said, if you were in this country unlawfully, you could still get benefits without any questions asked. But only up to 90 days. I am proud of the passage of this amendment and am pleased that it has provided an untold many with the opportunity of getting their lives back in order after this tragic event.

But the need for its passage underscored the problems we face with respect to our immigration policies. These kinds of measure ought not be necessary but because we face an escalating problem of illegal immigration and document fraud, they are.

Mr. Chairman, I will leave it up to the governors to describe the havoc being wreaked on their states as a result of our policies. I regret that we have reached the point where it

has become necessary to clarify our laws through amendments to appropriations measures. But I will continue to do so until we take up and pass meaningful immigration reform.

I thank the Chair for his generosity in holding today's hearing and I look forward to working with anyone assembled here today on the passage of immigration reform.

Senator REID. Mr. Chairman, I ask unanimous consent that the letter to the President, the letter to Governor Chiles, and like letters that have been sent to Governors Symington and Wilson, be made part of the record.

Chairman BYRD. Without objection, they will be included. Also included will be a statement by Senator Feinstein.

Senator FEINSTEIN. Thank you.

Chairman BYRD. And a statement by Senator D'Amato, and a statement by Senator Graham.

[The information follows:]

LETTERS FROM SENATOR HARRY REID

April 1, 1994

Honorable William J. Clinton
President
The United States of America
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

I read with great interest the recent Washington Post article reporting your plans to introduce an immigration bill next year. As you may know, I introduced comprehensive immigration reform legislation in the Senate on March 10.

This legislation is in response to the spiraling increase of both legal and illegal immigration. It will address the obvious flaws with our current immigration laws, which presently saddle states with unduly burdensome financial costs and, in too many instances, invite fraud and abuse.

In short, we are at a critical junction as a nation. An examination of the past and present problems caused by our immigration laws evinces the necessity of reform. The argument for immediate meaningful reform becomes most persuasive when one considers the future of our nation if the status quo is maintained.

That is why the principle thrusts of my bill are reducing the annual admissions of legal immigration to more reasonable levels and clarifying our asylum and refugee provisions to end discrimination and the existing incentives to perpetrate fraud. My bill achieves this while simultaneously protecting our historic role as a nation of immigrants.

The media are documenting story after story of alarming problems caused either directly or indirectly by our current immigration laws. As we in Washington embark on addressing what all agree is a federal problem, we must be mindful that there are minimum goals that must be set if we intend to enact purposeful legislation. Real reform must (i) address the excessive amounts of legal immigration allowed under current law; (ii) redefine the current "family preference" system in a manner that not only protects the nuclear family of an immigrant, but also recognizes the impracticality of allowing other adult relatives to apply for permanent status; (iii) depoliticize the current refugee system which, *prima facie*, discriminates against applicants because of their race, religion, or country of origin; (iv) clarify the asylum admission standards -- as well as the hearing and review procedures -- so that those who are fleeing genuine persecution are granted admission in a timely and orderly manner and those who are denied admission are properly and expeditiously excluded; (v) address the problems caused by criminal aliens in our society; (vi) provide our border law enforcement with the means and the manpower to effectively carry out their duties; and, (vii) clarify U.S. laws regarding noncitizen access to federal entitlement programs.

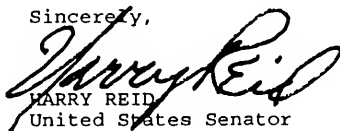
The time for meaningful reform is now. Your success in passing NAFTA speaks to the global direction we are moving towards as a society. Implicit in NAFTA is the recognition that as trade barriers come down, all countries will have to make

greater efforts toward developing and improving their own infrastructures and economies.

Finally, there is another issue -- albeit too often ignored in immigration debates -- that must be addressed as we move towards reform. That is the issue of the welfare of children. Your Administration has done a remarkable job of considering the welfare of children in so much of your legislation. I believe my legislation also considers their welfare in that it recognizes that unless we do something to reduce the escalating annual immigration levels we will be mortgaging away the futures of our children and grandchildren.

I am enclosing a copy of my bill as well as a title-by-title analysis. I would be quite interested in hearing your response to my proposals and look forward to working with your Administration on meaningful immigration reform.

Sincerely,



HARRY REID
United States Senator

May 1, 1994

The Honorable Lawton Chiles
Governor of Florida
1105 the Capitol
Tallahassee, Florida 32399-0001

Dear Governor Chiles:

I am writing to ask for your comments and suggestions regarding S. 1923, the "Immigration Stabilization Act," a comprehensive bill that I recently introduced to reform our nation's immigration laws and policies.

Something must be done promptly to reduce the escalating costs being imposed on the states and federal government, and the many other problems now arising due to unreasonably high levels of immigration. I know that you have been especially concerned over these costs and problems. Therefore, I am most interested in your views on my bill.

I am aware that states are seeking to have the federal government reimburse state governments for so-called "unfunded federal mandates" arising from continued high immigration. As a former Lieutenant Governor of Nevada, I certainly understand and empathize with the difficulties you face due to our nation's failed immigration policies. While federal reimbursements would help alleviate the problems, this will not solve them. Moreover, given the severe budgetary limitations we face at the federal level, state reimbursements will never be adequate. In my view, the only effective way to relieve the states of the undue burdens of our excessively high levels of immigration is for the Congress to pass comprehensive reform legislation that will fundamentally change our immigration laws and ensure that the new laws are adequately enforced. I feel that S. 1923 offers the best available legislative framework for making such necessary changes.

In brief, this bill: reduces legal immigration -- which currently accounts for roughly three-fourths of our total immigration level -- from nearly 1 million people per year to about 325,000; preserves U.S. jobs for citizens and legal residents; reduces taxpayers' costs for illegal aliens; authorizes federal incarceration of aliens in State prisons; expedites criminal alien deportation proceedings; increases penalties and curtails alien smuggling by organized crime; controls document fraud by requiring more secure identification documents and the use of a telephone verification system for work authorization; reforms and streamlines the political asylum process; makes sponsors of immigrants financially responsible; and eliminates discrimination in refugee admissions.

A copy of this proposal, a title-by-title summary, and my statement at the time of introduction are enclosed. After reviewing this measure, please advise me of your views. Also, if you support this proposal, I hope that you will recommend to your Congressional delegation members that they cosponsor S. 1923.

I look forward to hearing from you.

Sincerely,

HARRY REID
United States Senator

STATEMENT OF SENATOR DIANNE FEINSTEIN

Introduction

I would like to thank the Chairman for scheduling this hearing at such an opportune moment.

Just over a year ago, I spoke about my fears that if the federal government did not act aggressively to stop illegal immigration, there could be a backlash against all immigrants.

In October of 1993, I introduced the Immigration Law Enforcement Act of 1993 to increase the number of Border Patrol Agents, improve the asylum process and increase penalties for those who illegally smuggle immigrants into this country.

Now, a year later, I am even more concerned that the lack of action by Congress will only escalate ill will toward all immigrants. The time to act is now and for that reason I have introduced legislation today which broadens my original draft based upon many conversations with my colleagues.

For these reasons, this Appropriations Committee hearing is part of an essential process of educating and building awareness about the issue of immigration.

This week, the Crime Bill conferees are considering several important immigration initiatives, the Commerce-State-Justice bill is being finished in the House, and an OMB report on the costs to states of illegal immigration is being completed. It has become clear that immigration will be a key part of this year's appropriations process.

In recent months, awareness of the costs of illegal immigration has been growing at the national level. It is essential that we build on this growing awareness and act now to provide increased resources at our borders and to reimburse the states most affected by illegal immigration.

National overview

Let me take a moment to describe the current situation:

- According to the most recent estimates available from the Immigration and Naturalization Service, there are 3.85 million illegal immigrants currently in the United States.
- These illegal immigrants -- whose presence in the United States is the sole responsibility of the Federal government, which is supposed to enforce our borders -- create a burden on state and local social service programs, which are required to provide many services to illegal immigrants by federal mandate.

While experts have debated the exact size of the costs of illegal immigration, it is clear to everyone that illegal immigrants create a burden on states and counties which is not yet being addressed by the federal government.

In addition to several lawsuits against the federal government, there are now proposals and initiatives in my state and others that would cut off basic social services to legal and illegal immigrants, deny the United States citizenship of children born here by parents who are undocumented, and require that doctors and teachers look into the immigration status of everyone they served.

California

Illegal immigration is a tremendously serious issue in California -- where from 1.6 to 2.3 million illegal immigrants now reside at a cost that has been estimated by the Governor at over \$3 billion per year.

No matter what the exact number turns out to be, the fundamental point is sure to remain the same: This is an expense that Californians can no longer afford to bear. And sheer numbers of illegal immigrants are having an impact -- on classroom size, the jobs place, and in housing availability:

- The Governor's estimate is 2.25 million illegal immigrants in the State -- roughly half of the national total.
- The most recent estimates from the Immigration and Naturalization Service are 1.6 million illegal immigrants in California -- making up roughly 43 percent of the nation's 3.85 million total.

The costs of illegal immigrants to California may be as high as \$2.5 billion a year, according to the Governor's office. According to the Governor's budget:

- Almost 400,000 illegal immigrant students cost the state \$1.7 billion.

- Over 15,000 illegal immigrant criminals cost state prisons \$377 million.
- 1.3 million illegal immigrants needing emergency medical care cost the state over \$400 million.

Without increased federal reimbursement and improved border control, states such as California will continue to bear the costs of providing services to illegal immigrants, and sentiment against all immigrants -- legal and illegal -- will continue to escalate.

Growing federal awareness about immigration

In the past, the Federal government has been slow or unwilling to recognize the scope of this problem, but recent events suggest that both the Administration and Congress may now understand the need for federal reimbursement and improved border control to address illegal immigration:

- During the last 18 months, there have been several important debates and proposals on the issue of federal reimbursement to states, including amendments to the Crime Bill that call for criminal alien reimbursement.
- The Administration has made a \$350 million budget request calling for federal reimbursement for states' costs of incarcerating illegal immigrants in the FY 1995 budget, which would target the states with the largest illegal immigrant criminal populations.
- The Crime Bill that is currently in conference includes several initiatives to authorize and fund key immigration initiatives, including more border patrol agents and reimbursement to states for criminal alien incarceration.

Accomplishments

I have made immigration one of my top priorities over the last two years, and increasing resources at the border and federal reimbursement to the states are key elements that I have advocated:

- I have supported increased federal reimbursement to the states through the State Legalization Impact Assistance Grant (SLIAG) program, the emergency immigrant education program, the refugee cash and medical assistance program, the crime bill, and changes in the Medicaid reimbursement formula.
- I have supported and introduced legislation that would increase federal reimbursement and lower state costs, such as Senator Lautenberg's Prisoner Transfer Equity Act, Senator Graham's Criminal Alien Reimbursement Act, my own Immigration Control and Enforcement Act, and, with Senator Graham and others, the Illegal Immigrant Education Reimbursement Act.
- Most recently, ten Senate Members representing the states most affected by illegal immigration met at my request and formed an immigration working group, which established the President's \$350 million reimbursement request as our first legislative priority.

Conclusion

These immigration initiatives -- some of which will be authorized through the Crime Bill -- must be funded. The Crime Bill Conference Report and the Senate Appropriations Committee must fund the Administration's \$368 million INS border control initiative for FY 1995, as well as securing \$1.9 billion for the Criminal Alien Assistance Program, which reimburses states for incarcerating illegal immigrants, over the next six years.

The lack of sufficient border control and substantial federal reimbursement cannot go on. It is essential that federal reimbursement for the costs of illegal immigration be included in FY 1995 appropriations, and that illegal immigration control programs receive sufficient funding through the Crime Bill.

STATEMENT OF SENATOR ALFONSE M. D'AMATO

I would like to thank Senator Byrd for convening this important hearing and I wish to thank Governors Chiles, Symington, and Wilson, as well as Commissioner Doris Meissner, of the INS, and J. Gregory Robinson of the Population Division of the Bureau of the Census, for agreeing to testify.

There are several problems as they relate illegal immigration:

- abuse of the political asylum request
- illegal alien drug and gang violence - AND
- screening problems for terrorists and criminal aliens at ports of entry

I am very concerned about the effect terrorists and criminal aliens have had, specifically on the New York metropolitan area. From the bombing of the World Trade Center and the extensive bomb and assassination plot, to the smuggling of virtually enslaved Chinese aliens who have been coerced into the Asian drug gangs in the city, we have become overwhelmed.

I need not delve too deeply into the terrorist plots and their effects, but the damage that these men are charged with having caused is immense. The fact that many are illegal aliens points to the need for reform in our immigration system.

President Clinton's proposed bill is a good start, although there are several additional points that must be added to it to improve it:

-The INS, FBI, State Department, Customs, and all other organizations that play a part in the immigration system must tighten up and coordinate more on the visa lookout system for suspected terrorists and criminals. [THE VISA LOOKOUT SYSTEM IS A COMPUTERIZED LIST OF SUSPECTED TERRORISTS & CRIMINALS BASED UPON THEIR CRIMINAL RECORDS AT HOME AND/OR ABROAD]

-We must tighten controls at the point of origin putting responsibility for documentation on the originating country and airlines. If an individual arrives without documentation, or with insufficient documentation - they should be returned to the place they boarded the aircraft or boat.

-We must increase the number of INS agents at key U.S. destinations (like NEW YORK, MIAMI, and LA) and at key international departure cities.

-We must increase the number of INS agents handling the immigration casework in the most overloaded regions.

-We must require performance plans from immigration judges to ensure a more timely hearing schedule for the political asylum claims of aliens. Right now, it takes almost 18 months for a claim of political asylum to be heard.

-We must increase the amount of space that can be used to detain illegal aliens. We should take closed military bases and use them to detain these aliens.

-We must demand that return tickets or a monetary deposit for a return trip is secured before boarding for all those travelling with a tourist or business visa. This gives the airlines the ability to send an alien back to the country from which he flew here.

Now, by simply setting foot on American soil and requesting political asylum, an alien enjoys the rights and liberties guaranteed under the Constitution to American citizens. Once here, it is extremely difficult to deport an illegal alien. We need no more proof than the case of Sheik Omar Abdul Rahman.

If an alien arrives here with no documents or fake documents - instead of being sent back to the place where he or she boarded the plane or boat - the alien is allowed into the country. Sometimes, the alien destroys his documents on board the plane, and arrives undocumented.

On average, that alien would have a preliminary hearing in four months. At that time they are often given work permits that allow them to hold a job in the U.S. With this they can also apply for a social security card, and then a driver's license. Now, they have all the legal pieces of identification needed to apply for welfare, buy a gun, or even vote.

After a total of 18 months, the average alien would get a formal hearing on their immigration status. This is assuming that the alien would even bother to show up for their first or second court appearance - it is quite easy to just disappear into the system.

With no documents or fake documents - the alien can conceal his or her past identity and create an entirely new one. The current system cannot turn away criminals or even terrorists. The door is then open to the Sheik Rahman's of the world.

Now some will say that this Senator wants to close off our borders--nothing could be further from the truth. I don't wish to conduct a witch hunt, I only want to work to remove those aliens who came with fraudulent documents or no documents at all, from our nation and prevent another bombing like that at the World Trade Center.

Those persons seeking refuge, or a new life, or even just a better opportunity, will not be turned away. We will not keep out those who want to come here to the land of opportunity. We want to encourage the arrival of fresh ideas, sharp minds, strong hands, and new dreams. These persons can and should go through the proper procedures to enter our country. It is not wrong to say "come to America, but come legally." And those fleeing persecution and in dire need are provided for under the current laws.

On a separate issue, I am concerned over the recent decision to resubordinate INS agents now assigned to the Organized Crime Drug Enforcement Taskforce (OCDETF) back to their INS district directors. If this is in fact true, a terrible blow will be dealt to the OCDETF and the federal law enforcement collaborative enforcement concept. I strongly urge the INS to reconsider this disturbing move. It will only harm the operation of OCDETF and the fight against crime.

Nevertheless, it is time to learn how to say "NO!" We need to say no to drug dealers, criminals and terrorists. We need to say no to those who try to beat the system

or who do not follow the proper procedures. There is nothing wrong with putting someone back on a plane and telling them to come back when they get the proper documents to enter this country legally.

I am not advocating closing our borders, nor would I ever allow admission to this country to be restricted to only those more "desirable" or more "attractive" aliens. That would be absolute nonsense.

I simply want to make sure that the United States has a right to say "no" to the fraudulent claims of political asylum. Our right to deny entry has to be maintained.

I simply suggest that admission to the United States is a privilege not a right. We must require that those who wish to come here do so legally, and reserve the right to say no. When those that do come here and then commit crimes, the withdrawal of INS from OCEDTF will have a serious impact on the fight against crime, and again, I strongly urge that this decision be reversed.

STATEMENT OF SENATOR BOB GRAHAM

Mr. Chairman, distinguished Members of the Committee, I appreciate the opportunity to submit testimony for today's hearing. Illegal immigration is an issue which has a tremendous impact on my home State of Florida.

In March 1994, the Governor of Florida released a comprehensive report that spells out the financial nightmare Florida faces from illegal immigrants. The figures in this report are staggering. According to the U.S. Immigration and Naturalization Service, there are 345,000 undocumented individuals living in Florida.

In 1993, state and local governments in Florida spent \$884 million to provide services like education and health care for these undocumented immigrants. A breakdown of those costs shows that Florida spent about \$180 million for the Limited English Proficiency program, \$13 million for health care and social services, and another \$60 million to arrest, prosecute and incarcerate criminal aliens.

The federal government is responsible for the failure of our immigration policy. Why should states like California and Florida have to foot the bill? We are now working on three bills that would ensure that the federal government fulfills its responsibility in the area of immigration.

In particular, the financial burden of incarcerating illegal alien felons have been borne exclusively by states, straining our criminal justice budgets and prison systems. Florida estimates that about 4,100 foreign citizens are among Florida's 54,000 prison inmates. Of these, an estimated 2,700 are illegal aliens. Florida spends about \$60 million a year to keep them in prison.

That is why I recently introduced legislation, the "Criminal Aliens Federal Responsibility Act of 1994" with several senators from states that bear the greatest immigration burdens. Our legislation would require the federal government to accept its responsibility for these aliens, either by putting them in federal prisons or by reimbursing states for the costs of state and local incarceration.

In March, Florida became the first state in the nation to reach an agreement with the federal government to deport 500 to 1,000 nonviolent illegal aliens who are occupying badly needed prison beds. Just last week, Florida officials approved a plan in collaboration with Federal immigration authorities to deport 113 illegal aliens, 60 of whom are natives of Colombia. The 113 aliens are from 16 nations, most in the Caribbean and South and Central America. In all, 2,700 illegal aliens could be released

from their prison sentences and returned to their native countries. Florida estimates that the agreement will save as much \$1.7 million a year, and as much as \$30 million a year if all 2,700 inmates are deported. This plan is an important first step in helping to relieve Florida's overcrowded prisons.

Immigrant education is yet another example of the failed federal-state immigration partnership. In the case of *Plyler v. Doe*, the Supreme Court held that States have a responsibility to educate all children, regardless of immigration status. Since the ruling more than a decade ago, however, the federal government has not provided adequate funds to reimburse states for these mandated services. To fund education, local school districts in many cases rely primarily on local property taxes -- taxes which immigrants are less likely to contribute to than federal taxes such as social security.

We are currently developing legislation modelled on our criminal aliens bill which would require the federal government to reimburse local school districts for the costs of educating undocumented individuals who are enrolled in public elementary and secondary schools. Our intent is not to punish these students or to challenge the Supreme Court ruling on this issue. Instead, we want to ensure that the federal government, rather than states and localities, assumes responsibility for the costs of providing services to undocumented children and youth who are here as a result of federal immigration policy.

The federal government has never fully addressed its fundamental responsibility for our nation's immigration policy as enumerated in Article I, Section 8 of the Constitution. That power and singular responsibility was conferred upon the Federal Government by states "to establish an uniform rule of naturalization." Consequently, immigration and naturalization is a core, but often failed, responsibility of the Federal Government.

Individual states have no capacity, either under law or in resources, to control access of illegal entrants to our nation. Unfortunately, when the Federal Government does not adequately address its responsibility for illegal immigration, State and local government is often left with the burden of that failure.

In recent testimony to the House Ways and Means Committee, Michael Fix and Jeffrey S. Passel of the Urban Institute provided an analysis of immigration cost shifting. They said, "...the distribution of costs and revenues within the intergovernmental system can be viewed as being in imbalance. Immigrant tax payments flow to Washington while most of the costs of providing services fall to state and local government."

Until the federal government is required to pay for the results of its own immigration enforcement policies, it has little incentive to get serious about the problem. States and localities, unfortunately, do not have that luxury.

I thank the Chairman for his interest in immigration reform and look forward to working with him and Members of the Committee to further this important issue.

Governor WILSON. Senator Reid, do I understand the administration is opposing—

Chairman BYRD. Graham of Florida, excuse me, Governor.

Senator REID. No; interestingly enough—this is one of those—and you have not been gone long enough, you will still remember this. We have checked with the Justice Department. They do not oppose my amendment. We have checked with all the Federal agencies. None of them oppose it, but there is not a sole brave enough to sign a letter or to do anything indicating they support it. All they have told me is they are not opposed to it. You remember those days, when bureaucrats are afraid to make decisions.

And my amendment—again, I repeat that it would delete from the Treasury and Postal Service bill language that says Customs cannot establish a border fee on the Mexican border. I want it deleted.

Governor WILSON. Please, do not become depressed. We are counting on you and others to continue to fight the good fight, because you are right, we need help that only you can give us. Thank you.

Senator REID. But, Governor Wilson, you know it is always we are going to do something about it. We do not want to mess up this bill because we are going to get a package together and we are going to solve all the problems. And all I am saying is let us do them one at a time. Let us get this out. We have a pilot program, Mr. Chairman, in Blaine, WA, on the Canadian-United States border, that it was working very well charging a border-crossing fee. But, for some reason, on the southern borders we cannot do it.

Chairman BYRD. Senator Mack, it is your time. Senator Feinstein wanted to make a point on this same subject. It is up to you if you want to yield. I will not charge it against your time.

Senator MACK. Go right ahead.

Senator FEINSTEIN. You are very generous. Thank you.

Senator MACK. I just got through running around while I was gone on a whole bunch of different things, so I know the feeling. You go ahead.

Senator FEINSTEIN. Just one quick point to Governor Wilson on the border-crossing fee. I am, of course, going to support Senator Reid's amendment. If we should lose, we are just going to add in my legislation "notwithstanding any other law to the contrary, we can still go ahead and enact one."

Thank you, Mr. Chairman. Thank you, Senator.

Chairman BYRD. Senator Mack.

Senator MACK. Thank you, Mr. Chairman. And, first, let me express my appreciation for holding this hearing. And, Governor Chiles, it is great to see you here, and the other Governors as well. I might say at the outset that I believe you will be pleased to know that I am working on an amicus brief to support Governor Chiles' suit, and at the present time we have over 20 legislators who are going to sign on with me. I have invited the legislators from all the other States impacted by illegal immigration to join in as well. I think this is an important issue we have to pursue, in fact, we are pursuing that issue with the amicus brief.

Governor CHILES. I am delighted to hear that.

Senator MACK. Let me just start by asking a question with respect to Florida. Depending on how close one is to Miami, each morning you wake up wondering whether there is going to be another exodus from Haiti or from Cuba, for that matter. And my question really is, do you think the State is prepared? Are the resources from the Federal Government going to be there, in your opinion? Have we done the right kinds of things at the Federal level to help put a plan together to help you deal with it? What is the status?

Governor CHILES. Well, I tried to speak about that in my statement. For the first time, I think we can say there is, on paper, a Federal national emergency immigration plan. And I compliment the administration because this is the first time we have been able to get this far and, as you know, we have been trying to do this for a long time.

Florida has its own sort of emergency emergency plan. Not that in any circumstance we want to say it is not the Federal responsibility; it is. But, you know, we are certainly a part of the Federal plan and we are trying to work out the remaining differences, part of which is, you know, making sure that some of our officers can be federalized, in effect, for powers that they will need during that crisis.

Where we are right now—and I solicit your support, and Senator Graham's as well, and our congressional delegation—we are asking for an exercise of that plan. I said in my full statement, we just had a 2-day exercise for a hurricane alert, and it was a very interesting exercise and we found out a lot of things, and we have worked hard after Andrew. At this stage there is a plan on paper, but I cannot tell you that I have confidence.

If you ask me, are we prepared and is the Federal Government prepared? No; I do not know that. But we know things like designation of where the holding points will be—remember, there are a number of scenarios that could happen. We could talk about Cuba, we could talk about Haiti. We literally could have something come out of the other places in the Caribbean. So it is going to take some additional work, but we are kind of under way. We have something on paper.

Senator MACK. In a sense, though, we are experiencing kind of slow trickle exodus, in the sense that 3,000 to 4,000 Cubans and Haitians are coming into Florida annually. Are you getting the kind of assistance that you need with respect to that problem?

Governor CHILES. No; you know, actually, under the Cuban Act they enjoy a special status, and there is some help that comes with that, but even then we are seeing many of the programs decline, as I say, where it is 8 months. And is that enough to relieve the burden on Florida? No; it is not. But I guess we are talking about first things first, and if we deal with the illegal aliens that are there, then maybe we will talk about some of these other problems.

Now, as you know, the Cuban-American community has worked very hard and they continue to work hard to help assimilate a number of Cubans that come. So, fairly quickly those people join the work force. They work hard, they join the work force, and they get some assistance. Now, is it enough assistance from the Federal Government that it is not a burden on the State? No; it is not. But

that is not the problem because they have a better infrastructure, more support than a lot of the other importees have. Haitians, for example, do not have that kind of core support. It is a greater burden for them.

Senator MACK. Governor Wilson, in April of this year the INS and the Census Bureau reported new estimates on the number of undocumented immigrants in the United States. Their figures for the total numbers of undocumented are below the estimates you have used to calculate the cost of illegal immigration in your State. Have you updated your estimates to reflect these new numbers, and if not, why not?

Governor WILSON. We are waiting, frankly, for the Federal Government to resolve the conflict. What we did was base our numbers on Federal data, those provided by the Census Bureau. And what I think might be a helpful thing—and, by the way, that relates only, Senator, to the education costs, because with respect to incarceration, those are based on INS holds. We are told by INS that 98 percent of all the people upon whom they place holds are in the country illegally. With respect to the health care, that also is simply a matter of caseload, and that is documented by the actual forms they bring when they come.

Senator MACK. So the dispute with respect to numbers is only education, not health care and incarceration.

Governor WILSON. Yes, exactly. And we are happy to abide by any acceptable and accepted rational means of numbering the people who are actually in the country illegally, who are in the schools. And I know that there is a reauthorization bill coming up soon in education. Perhaps the committee might want to direct staff to work with the appropriate Federal agencies, perhaps the Department of Education, to come up with some measurement upon which we can all rely, so that we are all speaking the same language. Right now there is a dispute between two different Federal agencies: the Census Bureau and INS.

Senator MACK. Can you give us a sense of what the difference is, what the range might be? The numbers you showed us, I assume those were based on the Census Bureau.

Governor WILSON. INS is less than the Census Bureau. We used the Census Bureau numbers. And there is a difference. I would guess that it is probably in the range of a couple of hundred million dollars. Instead of \$1.7 million, I think it is probably nearer to \$1.5 million. I can get you the INS figure. I do not have it with me at the moment.

Senator MACK. We have some similar problems in Dade County. I mean, Dade County is very unique. We have something like 120 different countries represented in the school district in Dade County, and we have to admit about 1,500 new foreign-born students every year. Which means that, depending on the size of the school, somewhere from two elementary schools, one middle school, and one-half a high school has to be built to accommodate them. And this is after Dade County already passed a \$950 million bond issue to build schools, which these numbers do not reflect. And it is a major, major problem.

Let me touch on one other area and then I will be through, Mr. Chairman. Last October, when asked about the San Diego Board

of Supervisors' vote to bill the White House for the cost of illegal immigrants, the President apparently replied—and I quote from a news article—"I think they should send me a bill. I do. I am with them on this."

Well, you and other States have sent the President your respective bills. What has happened since then?

Governor WILSON. Not very much, Senator. There has been a response, as you have heard, with regard to the cost of incarceration of illegal immigrant felons. It is less than needed by quite a lot, and the amount is estimated by the Congressional Budget Office, and Governor Chiles thinks that CBO is low and I agree with him. But beyond that, frankly, there has not been very much. There has not been the action.

The President has said a number of things which I wholeheartedly agree with. I mean, the language has been on the mark. He has described the border as being like a sieve, saying that it is an intolerable situation, that it has to be fixed. He has spoken of Federal failure and the unfairness to the States resulting from the costs and burdens that flow from that Federal failure to secure the border. All of that is very comforting; it simply has not translated into any action beyond the \$350 million that he has proposed as a partial reimbursement for the costs of incarceration.

Governor CHILES. We had 411 Haitians come in in one day's time, and we sent a bill for that 411, \$29 million, and the invoice has not been paid yet. But it may be that they are saying Congress has to cosign the check.

Senator MACK. Very good.

Governor SYMINGTON. Senator.

Senator MACK. Yes.

Governor SYMINGTON. I would like to make just one comment. I think of all the border States, we probably are suffering the most neglect when it comes to paying attention to the difficulties along our border. And they are going to increase substantially, especially as the NAFTA Treaty takes effect.

The amount of commerce and the pressure—for instance Nogales, on our side of the border, has a population of 20,000 people. Nogales-Sonora, Mexico, has a population of well over 300,000 people. And during the day Nogales on our side of the border grows from 20,000 to over 60,000 people in a day, and the area is just a cauldron of activity, both legal and illegal. And the Federal Government really needs to help us and quickly, because we are virtually under siege along that part of our State, especially as the INS has become more effective in Texas and in California.

Governor WILSON. Senator Mack, if I might piggy-back on Governor Symington's comment. A point I would like to leave with the committee—and I think it is critical—is that it is not impossible to secure the border against illegal immigration because, in fact, it has been done quite successfully. The Border Patrol, in what they term Operation Hold the Line at the El Paso sector, has managed to reduce illegal immigration almost 75 percent. So it can be done where there is a commitment. Where there are devoted the resources, the manpower, a tremendous difference can result.

Obviously, if you do that in a single area, there is some slippage in other areas. It is a little like pressing down on water. The obvi-

ous result, if we are not to have a border that is like a sieve, is to increase the commitment, and that is what we are asking. From that failure flows all these other costs.

Chairman BYRD. Thank you, Senator. We are rapidly approaching a time for a rollcall on the Senate floor. Now let me ask you, Senator—I will call you Senator—Senator Chiles, you refer to the memorandum of understanding—

Governor CHILES. Yes, sir.

Chairman BYRD [continuing]. With the INS which allows non-violent criminal aliens to be eligible for a clemency hearing. And I understand also, Governor Wilson, that California participates in that program as well.

Governor Chiles, can you indicate how many criminals that you estimate will be deported under this clemency program?

Governor CHILES. We think under the present memorandum of understanding, somewhere in the neighborhood of 1,200 to 1,400 are probably eligible there. None of these are Cubans and none of these are violent felons. So it is a first things first. A lot of these are drug users or drug pushers, but nonviolent. So, around 1,200, 1,400.

Chairman BYRD. How much will this save you each year?

Governor CHILES. The equivalent of two prisons. And if you figure it cost us roughly \$17,000 a person to keep someone—and that is not the construction cost—\$14,000 to \$16,000 to \$18,000, so roughly \$17,000 per person that we deport.

Chairman BYRD. Governor Symington, the fiscal year 1995 budget request for INS includes money to expand this program. Would your State benefit from this program and are you interested in participating?

Governor SYMINGTON. Mr. Chairman, yes, our State would benefit from the program. Our only concern is that we will not receive enough of the manpower to make a difference along the really big pressure points that we have, especially in the Tucson-Nogales sector.

Chairman BYRD. This morning's hearing has been useful in highlighting the need for all of us, at both the Federal and State levels, to dig in and refocus our priorities on illegal immigration. We see that there is a broad discrepancy with respect to numbers and data, Census figures, INS figures, the States' figures, so this is a problem which we have got to try to resolve somehow or else we do not know whose figures are about to be correct or may be correct or are incorrect. So there has to be a solid basis on which to proceed when we talk about reimbursing the States.

Illegal immigration affects the integrity and the security of the States represented by the Governors here on our panel, and all the States on our Southwestern border in particular, as well as the State of Florida. There is no reason that, with an intensified effort of putting the right technologies into place and a far greater commitment of energy and attention by officials at all levels, we could not better enforce our immigration laws.

First and foremost, we all need to accept more responsibility than we have thus far to work to resolve this problem. We have passed major legislation three times in the last 15 years on this matter, with disappointing results. The tide keeps coming, and

coming in at a rate as high as 300,000 illegals a year. Further legislative work is undoubtedly needed, and more money to service the incoming tide is not the sole answer. The real answer is to stop the tide as far back into the ocean as we can, and I think you Governors have indicated your belief in that.

Federal agencies, such as the INS and the Department of State, have a heavy responsibility, and we here in the Senate need to ensure that they have the resources, technology, and legal clout to do the job. We also have to understand here in the Senate, and outside the Senate, that old Mother Hubbard's cupboard is pretty bare as far as the resources are concerned.

I am not going to take your time crying the blues about our dearth of resources, but suffice to say that over the next 5 years we will be operating at a freeze level. I think there is probably a total increase in discretionary spending, which includes defense, of \$6 billion over the 5 years, whereas mandatory and entitlements spending will increase over that period \$823 billion. There is the cost of Government.

We in the Appropriations Committee do not have much elbow room when it comes to discretionary funds. We have less and less and less. The States need to take the responsibility to do their part to get tough on illegals too. The States cannot expect the Federal Government to solve this problem by just writing larger checks to them to provide more services for illegals.

Employers who duck their responsibilities to ensure that their employees are not illegal aliens do us all a disservice. State employees who look the other way are also exacerbating the problem. Most of all, I think, we probably need to end the verbal warfare between the States and the Federal Government on this issue and try to get down to business together.

And I compliment you, Governor Chiles, for recognizing the inaccuracy and the undependability of the data with which we have to work. You so stated in your fine statement. But only when we get down to business together can we begin to address the problem. And I appreciate, especially, the efforts that these Governors have taken to come here today and address this issue. We all agree on the need, as I say, for a better data base from which to develop specific solutions to the problem.

This afternoon we will hear from the experts on the data base from the Bureau of the Census and the Immigration and Naturalization Service. Now, it was planned that the committee would reconvene at 2 p.m. Three rollcalls are scheduled to begin at 2 o'clock, I understand. This would mean, then, that our afternoon panel should not prepare to appear until 3 p.m. this afternoon.

Again, I thank all the Governors who are here, each of the Governors personally. You have sacrificed considerably to come here in terms of your time, the labor you have put into this work. I empathize with you and your problem, and I share the concerns that you expressed.

I have one final admonition for a good many Senators who have expressed concerns likewise about this problem. I would hope that they would stop voting to make across-the-board cuts in discretionary spending and perhaps that would enable us to have a little more by way of financial resources to address the problem. I mar-

vel at how they can readily address the problems vocally without any advanced notice or time, but when it comes to cutting discretionary funding on the floor they seem to forget about problems such as this which are crying out to be addressed.

Governor CHILES.

Mr. Chairman, I just, again, wanted to express our appreciation for this extraordinary hearing that you have held, and the time and attention that you have given it, as have the other members of the committee. This is sort of the first light we have seen on the horizon in a while, and we look forward to getting down to business on this.

Chairman BYRD. I thank you and your colleagues for the letter that you wrote asking for the hearing. The hearing will be printed and it will be made available to the Judiciary Committee and other committees that have jurisdiction over the issue from the standpoint of legislation.

COMMITTEE RECESS

Thank you. The committee will stand in recess until 3 p.m. today.

[Whereupon, at 1:30 p.m., Wednesday, June 22, the committee was recessed, to reconvene at 3 p.m. the same day.]

(AFTERNOON SESSION 3 P.M., WEDNESDAY, JUNE 22, 1994)

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

STATEMENT OF J. GREGORY ROBINSON, CHIEF, POPULATION ANALYSIS AND EVALUATION STAFF, POPULATION DIVISION

OPENING STATEMENT

Chairman BYRD. The hour of 3 o'clock having arrived, the committee will come to order. I am pleased to welcome Mr. Greg Robinson from the Population Division of the Bureau of the Census.

As my colleagues are aware, the question of a more reliable data base is central to our analysis of the problems associated with illegal aliens resident in the United States. Without some certain and easy national system such as a national identity card, about which there is understandable caution by several libertarians, the size, composition, and geographical location of these people is the subject only of various estimating techniques, so we cannot be sure of the precise size, location, and composition of illegal alien communities in this country.

This puts us in a dilemma regarding Federal funding decisions in relation to illegal aliens, particularly as they relate to providing reimbursement to States for certain costs such as has been advocated, this morning, by the Governors of several States. We need good data, accurate data, dependable data, and an understanding of trends such as yearly additions to the population. We also need to be able to gage the effect of whatever laws and policies are put into place on the flow of illegals into the United States.

We are fortunate that some energetic individuals have been working hard to get a better understanding of this issue. Mr. Robinson and his group at the Census Bureau have worked closely with the INS to compare different techniques of estimating this population.

Now, several of my colleagues are still on the Senate floor responding to the last rollcall vote, and hopefully they will be here shortly. In the meantime, Mr. Robinson, you may proceed.

Mr. ROBINSON. Mr. Chairman, it is a pleasure to be here today to testify about how the Census Bureau estimates the size and geographic distribution of the undocumented immigrant population in the United States. In my testimony, I review data issues and the research to develop estimates of the undocumented population.

There are no precise numbers on the size of this population. I will show, however, that there is general agreement among researchers on the size range, and in which States most undocumented immigrants live. In the past several years, the Census Bureau has improved substantially the methods and data used in estimating the undocumented population.

One major method is called residual estimation. In the residual method, we compare the size of the noncitizen population from two sources: records of the Immigration and Naturalization Service, or INS, for the legally resident noncitizen population, and the decennial census data, which includes both legal and illegal residents. When we subtract the INS legal noncitizens from the census numbers, we get the number of undocumented immigrants in the census. That is how we got an estimated 2 million undocumented immigrants in the 1980 census. We estimated another 1 million were not counted in the census. From this, we arrived at a total estimate of 3 million undocumented residents for 1980.

Based on analysis of data on the foreign-born population in the current population survey during the 1980's, the Census Bureau estimates on average the undocumented population grew about 200,000 a year. From demographic analysis of coverage in the 1990 census, we estimated there were 3.3 million undocumented residents.

We are currently revising the 1990 estimate based on new research and data. Now we have 1990 census data on the characteristics of the foreign born, new estimates of emigration, and are including an estimate for special agricultural workers who legalized under the Immigration Reform and Control Act. The final results will not be available until this fall, but I believe the 1990 estimate will be reduced, perhaps to somewhat below 3 million. I will come to a 1994 estimate later in my testimony.

We can improve our assumptions used to estimate the undocumented population by drawing on two new data sets. One source is detailed data on persons who became legal residents under the provisions of the Immigration Reform and Control Act, known as IRCA. We used the distribution of demographic characteristics of undocumented immigrants in the IRCA data to roughly validate the estimate from the residual method. From this, we know the majority of undocumented immigrants are male, young adults, and large numbers are from Mexico and other Hispanic countries.

Second, the INS has estimated the number of persons who overstayed their visa and the number of illegal border crossers from their administrative records. From this, the INS estimated the size of the undocumented population was 3.4 million in October 1992. With these same methods, the INS estimate for 1990 is 2.6 million. We expect the Census Bureau's revised estimate for 1990 will likely be closer to the 1992 INS estimate.

The annual net increase of the undocumented population is estimated at 300,000 by the INS and 200,000 by the Census Bureau. Neither imply explosive growth such as by 500,000 or 1 million undocumented persons a year. The General Accounting Office conducted an independent review of the methods we use; their findings are consistent with ours.

The question this committee asked me is how many undocumented immigrants are living in the United States today, in June 1994? Based on the research of both the Census Bureau and INS, I think a reasonable number is between 3.5 million and 4 million.

We know less about the number of undocumented immigrants living in each State. There is limited data, and we have little basis for validating the few available State estimates. Thus, there is con-

siderable uncertainty regarding the numbers of undocumented residents in any given State. I will show, however, we can confidently use data to indicate the States where undocumented residents are most concentrated. These States are California, New York, Texas, Florida, Illinois, and New Jersey.

To my knowledge, there are only three data sets that pertain specifically to the distribution of the undocumented population among States. The first are estimates of undocumented immigrants from the 1980 census by State, based on the residual methodology. We used estimates of the State of residence of the noncitizen population registered under the Alien Address Registration Program. That estimate was compared with detailed census data. The residual provided an estimate of undocumented immigrants for States. These showed the undocumented population was concentrated in a few States.

In 1980, California had about 1 million undocumented residents, one-half of the Nation's total, compared with New York which had about 11 percent, and Texas with 9 percent. These three States, plus Illinois and Florida, accounted for 80 percent of all undocumented immigrants in the United States. Three in four of California's undocumented immigrants came from Mexico. The Alien Registration Program was discontinued so we cannot use the same methodology to make 1990 estimates for States.

The second data set on the undocumented population in States is the statistical tabulations from the IRCA program. Of the 1.8 million who applied, 54 percent lived in California. Of those who applied under the special agricultural program, 53 percent lived in California. Mexico was the dominant country of origin for IRCA applicants, and most lived in California and Texas. Together, five States, California, Texas, New York, Illinois, and Florida, accounted for 84 percent of all immigrants who legalized under the IRCA program.

The third set of data on the undocumented population for States is the estimates prepared by INS. The components are: one, the national estimates of undocumented immigrants for October 1992, specific to country of birth; and two, the State distribution of persons who legalized under IRCA, again specific to country of birth. As you know, from these estimates we see IRCA fundamentally changed the State-by-State distribution of the undocumented population.

There were two reasons. First, most of the legalizing population was from Mexico and other Hispanic countries. That means after IRCA, the distribution of undocumented population from those countries was dramatically reduced. Second, because the majority of legalizing Hispanics lived in California, Texas, and other Southwestern States, the reduction in the undocumented population after IRCA was especially pronounced for those States. For instance, while California was home to 50 percent of undocumented residents according to the 1980 estimates, the State's share dropped to 43 percent immediately following IRCA.

Despite the shifts caused by IRCA, the undocumented population remains very concentrated in a few States, as shown by the INS estimates. The Census Bureau did a preliminary estimate that suggested 2.1 million undocumented immigrants lived in California in

1993. Now we know that preliminary number was too high. Why? Well, our research is an evolving process. The later work by INS showed the preliminary estimate did not correctly account for country of birth and the shifts attributable to IRCA legalizations.

The Census Bureau has continued to improve the estimates of undocumented immigrants, and has now updated them to the current date. Dedicated professionals are doing highly technical work to develop these estimates. Let me give you a feel for this.

First, two anchor estimates of undocumented residents at the national level are used to derive alternative State estimates. These national estimates are 3.5 million and 4 million, which I defined earlier as representing reasonable working national estimates. Second, three different State distributions were used to apportion the national estimates: one, the average of the percentages by State of residence of undocumented immigrants included in the 1980 census and the IRCA legalizations; two, the percentages of undocumented immigrants by State for October 1992, based on the INS methodology; and three, the percentages of foreign-born noncitizens counted in the 1990 census.

The application of these three distributions to the two national estimates produces a set of six different estimates of undocumented residents for each State. These estimates, in their range from the highest to the lowest, are displayed in table 1. That is the last page of the written testimony.

The size class of the undocumented population of States falls into three tiers. California clearly leads all other States and sits alone in the first tier. Regardless of the method or process of estimation, California's share of undocumented persons is very large relative to that of other States. The illustrative estimates of table 1 show a range of 1.3 million to 1.8 million for California in 1994. Five States, New York, Texas, Florida, Illinois, and New Jersey comprise the second tier. Each has an estimated 100,000 to 600,000 undocumented immigrants.

Together, these top six States account for about 85 percent of all undocumented immigrants living in the United States. The third tier is made up of the remaining 44 States, where the estimates of undocumented immigrants are all relatively small.

PREPARED STATEMENT

Thank you. That concludes my testimony. I will be happy to answer questions.

[The statement follows:]

STATEMENT OF J. GREGORY ROBINSON

INTRODUCTION

Mr. Chairman, it is a pleasure to be here today to testify before this Committee on the topic of estimating the size and geographic distribution of the undocumented immigrant population in the United States. The paucity of administrative and statistical data on undocumented immigrants makes the estimation of their numbers difficult. In my testimony, I will review the research that has been conducted by the Census Bureau and others to develop estimates of the size of the undocumented population. I will focus first on the methodology for producing national estimates and then discuss the more limited research on State estimates. While there are no precise numbers, I will show there is general consensus among immigration researchers about the relative size of the undocumented population in the United States and agreement about the few States in which most undocumented residents live.

NATIONAL ESTIMATES OF UNDOCUMENTED IMMIGRANTS

The Census Bureau has conducted research on estimating the number of undocumented immigrants for many years. This work began in the late 1970s, when the issue of how many "illegal aliens" lived in the United States became a topic of debate. Speculative estimates during the 1970s were as high as 12 million; empirically-based estimates suggested much lower numbers (less than 6 million).

Since the 1970's, new techniques have been developed to make better estimates with administrative records, surveys, and decennial census data. One innovation is the application of "residual estimation techniques," that is, an estimate of the legally resident non-citizen population based largely on data on

non-citizens from the Immigration and Naturalization Service (INS) is compared with detailed decennial census data on the non-citizen population. The census data were classified by country of birth, period of entry, age, and sex. The difference in the independent INS-based estimate and the census count is the estimated number of undocumented immigrants in the census. Using this technique, the Census Bureau estimated that about 2 million undocumented immigrants were included in the 1980 census. Based on other research findings and professional judgement, it was assumed that 1 million undocumented immigrants were not counted in the census. This is how we arrived at a total estimate of 3 million undocumented residents for 1980.

In addition to providing estimates of size, the detail of the 1980 estimates allowed the first systematic assessment of the demographic profile of the undocumented immigrant population. Of the estimated 2 million counted in the 1980 census, 53 percent were male and 69 percent were between the ages of 18 and 44. An estimated 20 percent were school-aged children (ages 5-17) and only 3 percent were over age 54. This young adult population differs from the profile of the general population in 1980, where only 41 percent were between ages 18 and 44, 21 percent aged 55 or older, and the majority are female.

Based on analysis of data on the foreign-born population in the Current Population Survey (CPS), the Census Bureau developed estimates of the net growth during the 1980's of the undocumented population. Comparison of the residual estimates of undocumented immigrants in the 1979, 1983, 1986, 1988, and 1989 CPS' showed net in-migration of about 100,000 to 300,000 persons a year. On average, the undocumented population grew about 200,000 per year. Beginning in 1985, the Census Bureau incorporated an explicit allowance for 200,000 undocumented immigrants per year as a

component of change in its postcensal population estimates program.

As part of its evaluation of coverage in the 1990 census based on demographic analysis, the Census Bureau estimated that there were 3.3 million undocumented residents as of April 1990. This was a "preliminary" estimate based on two analytical approaches. In the first approach, estimates of undocumented immigrants included in the November 1989 CPS were developed based on the residual methodology. These estimates were adjusted to allow for undocumented persons not counted, and carried forward to April 1990. The second approach employed "implicit" estimates that result from carrying forward estimates of undocumented residents in 1980 with estimates of change from 1980 to 1990. Given the uncertainties in the underlying data, alternative assumptions were made that generated a range of estimates from 1.9 to 4.5 million. The estimates converge on a point estimate of 3.3 million.

The Census Bureau is currently revising the estimates of undocumented residents in April 1990 based on new research and the incorporation of data improvements. A major improvement in the research will be the fact that detailed 1990 census data on the foreign-born, including their country of birth, period of entry, age, and sex will be used in the analysis rather than the less detailed 1989 CPS data. Second, data enhancements allow us to revise some of the underlying assumptions in the methodology. These enhancements include estimates of emigration of the foreign-born and an estimate for Special Agricultural Workers who were legalized under the Immigration Reform and Control Act of 1986 (IRCA). Although the results won't be available until Fall, it is my judgement that the revised estimate of undocumented residents for 1990 will be lower, perhaps slightly below 3

million. I will describe a 1994 estimate later in my testimony.

In the past 3 or 4 years, two new sets of statistical data on the undocumented immigrant population have become available. These data sets enable Census Bureau researchers to compare results with our data sets and improve the basis for our assumptions. One source is detailed data on persons who became legal residents under the provisions of IRCA. The application period was May 1987 to May 1988. This is the most comprehensive administrative data set ever available on undocumented persons. It provides information such as the numbers of persons, their age, sex, country of birth, state of residence, and date of last entry into the United States. The IRCA data have been used to roughly validate the residual-based estimate of undocumented immigrants in terms of the similarity of demographic characteristics. For example, the majority are male, young adults, and large numbers are from Mexico and other Spanish speaking countries. The IRCA data set provided an additional source for estimating the relative magnitude of the numbers, in the range of 2 to 3 million for the early 1980's. The IRCA data are also being used in the current revision of our estimates for 1990.

The second set of data is the estimate of undocumented immigrants developed by the INS. The INS estimated that the size of the undocumented population was 2.6 million in April 1990, 3.4 million in October 1992, and estimates it is growing at 300,000 per year. The INS methodology is based on a detailed analysis of administrative data on nonimmigrants (those admitted for temporary periods), and results in estimates of the number of persons who overstay their nonimmigrant visas. Those estimates are supplemented by estimates of undocumented immigrants who enter clandestinely across the borders (using INS and Census Bureau statistics).

The estimates of INS provide a largely independent source to validate the reasonableness of the Census Bureau's estimates. In fact, the estimate of 2.6 million undocumented immigrants produced by the INS methodology for April 1990 is lower--but of the same relative magnitude--as the preliminary Census Bureau estimate of 3.3 million. As I noted earlier, I expect the Census Bureau's revision of its estimate will lower the number and thus be closer to the INS estimate. The annual net increase in the undocumented population is estimated by INS to be 300,000 compared to the Census Bureau's estimate of 200,000. Nevertheless, they are consistent in that neither implies explosive growth, such as by a half million or a million undocumented persons a year.

The General Accounting Office (GAO) conducted an independent review of the available methods to estimate the size and flow of the undocumented population. They concluded the likely maximum size of the population was 3.4 million in April 1990 (no minimum size was given). The GAO findings are consistent with the research I have already discussed that suggests approximately 3 million undocumented residents were living in the United States in 1990.

This Committee has asked me: "How many undocumented immigrants are living in the country in June 1994?" To answer this question, we can illustratively update the available estimates for 1990 with assumptions about net change. For example, the Census Bureau estimate of 3.3 million in 1990 yields an implied estimate of 4.1 million undocumented residents in 1994 after adding an assumed annual net increase of 200,000 [3.3 million + (4 x 0.2 million)]. Similarly, the INS estimate of 3.4 million in 1992 extrapolates to roughly 3.8 million in 1994 [3.4 million + (1.5 x 0.3 million)]. Thus, based on the research of both the

Census Bureau and INS, a number between 3.5 and 4.0 million appears to be a reasonable working estimate.

STATE ESTIMATES OF UNDOCUMENTED IMMIGRANTS

We know less about the numbers of undocumented immigrants at the State level. There are even less hard statistical data than at the national level and little basis for validating the few available State estimates. Although there may be considerable uncertainty regarding the numbers of undocumented residents in any given State, I will show the available data can be confidently used to indicate the States where undocumented residents are concentrated. These States are California, New York, Texas, Florida, Illinois, and New Jersey.

To my knowledge, there are only three statistical or empirically-based data sets that pertain specifically to the distribution of the undocumented population among States. The first is the estimates of undocumented immigrants included in the 1980 census by State, developed by Census Bureau researchers using the residual methodology. To apply that methodology, an independent estimate of the non-citizen population was first developed by using INS data on the State of residence of non-citizens who registered under the Alien Address Registration program. That estimate was compared with detailed census data classified by State of residence and country of birth. The difference between the estimate and the census count produced "residual" estimates of undocumented immigrants. Although subject to uncertainty, the estimates were the first to clearly demonstrate the undocumented population was concentrated in a few States. In 1980, California had an estimated 1,024,000, or 50 percent of the national total of 2,057,000; New York had 234,000 (11 percent); Texas had 186,000 (9 percent). The top six States, including Illinois, Florida, and New Jersey, accounted for 82 percent of all

undocumented immigrants in the United States. For California, Mexico was by far the largest source country (763,000, or 75 percent). The Alien Address Registration program was discontinued in the early 1980's. Thus, this same methodology cannot be applied to estimate the number of undocumented persons counted in the 1990 census at the State level.

The second data set on the undocumented population is the statistical tabulations from the IRCA program, which I noted earlier. California was the dominant State of residence for IRCA applicants; 958,000 of the 1.8 million (or 54 percent) who applied under the "pre-1982" legalization program and 676,000 of the 1.3 million (or 53 percent) who applied under the Special Agricultural Worker Program (SAW) lived in California. Mexico was the dominant country of origin; 1.2 million of the 1.8 million (70 percent) pre-1982 applicants and 1.0 million of the 1.3 million SAW's (81 percent) were Mexican citizens. The majority of these Mexican applicants lived in California and Texas. Together, five States (California, Texas, New York, Illinois, and Florida) accounted for 84 percent of all immigrants who became legalized under the IRCA program.

The third set of data on the undocumented population for States is the estimates prepared by INS. These estimates represent extensions of the national estimates noted earlier. The State estimates were developed using two essential components: (1) the national estimates of undocumented immigrants for October 1992, specific to 99 countries of birth, and (2) the State distribution of persons who were legalized under IRCA, again specific to country of birth. The 1992 national estimate for each country was multiplied by the IRCA State-by-State distribution for that country; State totals of undocumented population were produced by summing across countries. For example, of the estimated 3.4

million undocumented immigrants in 1992, 1.3 million were estimated to have been born in Mexico. Under the IRCA program, 60 percent of legalized Mexicans were living in California. The INS methodology then assumes that 60 percent of the 1.3 million "current" undocumented Mexicans (or 780,000) live in California.

The INS estimates demonstrate how IRCA fundamentally changed the State-by-State distribution of the undocumented population, for two reasons. First, because most of the legalized population was from Mexico and other Hispanic countries, the immediate post-IRCA proportion of undocumented immigrants from those countries was dramatically reduced. Second, because the majority of legalized Hispanics lived in California, Texas, and other Southwestern States, the reduction in the undocumented population after IRCA was especially pronounced in those States. For instance, while California was home to one-half of undocumented residents according to estimates for 1980 (Census Bureau estimate) and 1986 (INS estimate), the State's share of the total undocumented population dropped to 43 percent immediately following IRCA (INS estimate for 1988). On the other hand, New York's proportion increased from an estimated 11 percent in 1980 to 13 percent in 1988, an increase attributable in part to that State's relatively smaller share of the legalized population.

Despite these distributional shifts due to IRCA, the most recent INS estimates (for October 1992) show that the undocumented population remains very concentrated in a few States. California's estimated number--1.4 million, or 43 percent of the U.S. total--is still far larger than the second highest State (New York, with 449,000, or 13 percent of the total). Texas (357,000), Florida (322,000), Illinois (176,000), and New Jersey (116,000) round out the top six States. These combined six States account for 85 percent of all undocumented immigrants.

Until recently, the Census Bureau's research on estimating the undocumented population had focused on developing national estimates. The increasing number of requests for information on geographic distributions prompted our investigation into developing illustrative State estimates. In response to a request from the Task Force on Health Care Reform in the Spring of 1993, we put together a table to convey, in broad terms, the relative distribution of undocumented residents among States. The distribution represents the average of two data sets on the undocumented population available at that time: (1) the 1980 distribution of undocumented immigrants by State, and (2) the IRCA distribution of legalized immigrants. This composite distribution suggested that 52 percent of the undocumented population (or 2.1 million based on a national total of 4 million) lived in California in 1993. The later work by INS showed this preliminary estimate did not correctly account for country of birth and the shifts in geographic distributions attributable to IRCA legalizations.

The Census Bureau has since improved the illustrative estimates by incorporating the following changes: (1) conducting the analysis specific to State and country of birth, and (2) including several distributions to test the robustness of the resulting estimates and to reflect the inherent difficulty in precisely estimating the size of undocumented population. Although the documentation of these revised illustrative estimates refers to an October 1992 reference date, for this testimony I have updated the estimates to June 1994. First, two "anchor" estimates of undocumented residents at the national level are used to derive the alternative State estimates. These estimates are 3.5 million and 4.0 million, which I defined earlier as representing reasonable working national estimates. Second, three different State distributions were used to apportion the national estimates: (1) the average of the

percentages by State of residence of undocumented immigrants included in the 1980 census and the IRCA legalizations (these distributions are further disaggregated by country of birth), (2) the percentages of undocumented immigrants by State (for October 1992) based on the INS methodology, and (3) the percentages of foreign-born non-citizens counted in the 1990 census. The application of these three distributions to the two national estimates produces a set of six different estimates of undocumented residents for each State. These estimates, and their range from the highest to the lowest, are displayed in Table 1.

These illustrative estimates present no surprises, because they are based largely on the research work I have previously discussed. The estimates are intended to serve as a tool to summarize what we know about geographic patterns of the undocumented population. Despite the uncertainty in the exact numbers, there are common patterns among the different distributions.

For comparative purposes, it is useful to think of the undocumented population of States as classified into three tiers. California clearly leads all other States in terms of the relative magnitude of undocumented residents and sits alone in the first tier. Regardless of the method or process of estimation, California's share of undocumented persons is very large relative to that of other States. The illustrative estimates in Table 1 for California show a range of 1.3 million to 1.8 million undocumented persons, or 38 to 45 percent of the total, for 1994. Five States--New York, Texas, Florida, Illinois, and New Jersey--comprise the second tier, which are States with estimates of between 100,000 and 600,000 undocumented immigrants. Together, these top six States account for about 85 percent of all undocumented immigrants in the United States. The remaining 44 States plus the District of Columbia occupy the third tier, where the estimates of undocumented immigrants are all relatively small.

Chairman BYRD. Thank you, Mr. Robinson. I had great difficulty following you because you did not follow your script very closely. You jumped about a good bit. Perhaps it was my fault.

Mr. ROBINSON. The oral testimony I prepared.

Chairman BYRD. I will have to get you to repeat the distribution of this undocumented alien population among the top five States and by country of origin in those States.

Mr. ROBINSON. I am sorry, you asked the top five States?

Chairman BYRD. Yes; would you repeat the distribution of the undocumented alien population among the top five.

Mr. ROBINSON. The top five States, according to our range of estimates, are: No. 1 California; No. 2 New York; No. 3 Texas; No. 4 Florida; and No. 5 Illinois.

Chairman BYRD. No; how many for each is what I am asking for. Repeat the distribution.

Mr. ROBINSON. We show a range of numbers. For California, we show from 1.3 to 1.8 million, or 38 percent to 45 percent. We have no one estimate. That is our range. For New York, the estimate is 462,000 to 539,000, or from 13.2 to 13.5 percent. For Texas, the estimate is from 300,000 to 427,000, or about 8.6 percent to 10.7 percent. For Florida, the estimate ranges from 243,000 to 385,000, or 7 percent to 9.6 percent. And the fifth State is Illinois, ranging from 157,000 to 226,000, or 4.5 to 5.6 percent.

Chairman BYRD. What are the typical demographic profiles of undocumented aliens in the United States?

Mr. ROBINSON. Based on our analysis of data for 1980, the typical profile is one of young males. The vast majority were between the ages of 18 and 44. About 20 percent were school-age children and fewer than 3 or 4 percent were over the age of 55. That was a typical profile of an immigrant population.

Chairman BYRD. You say about 20 percent are school-age children.

Mr. ROBINSON. Yes; there were a number of children and young teenagers that were derived by our estimates.

Chairman BYRD. How would you say that would compare with the rest of the country?

Mr. ROBINSON. I believe the proportion of the general population is a little bit higher than 20 percent for school-age children. Of course, the proportion of young adults in the general population is much less than the proportion of young adults in our estimates for undocumented population. I would have to get back to you to give you the exact numbers, but that is my recollection.

Chairman BYRD. So, you are saying that—you say a much larger percentage—

Mr. ROBINSON. For which demographic group?

Chairman BYRD. Children.

Mr. ROBINSON. I believe the population of children—these are 1980 figures because we do not have the updated analysis for 1990—was about 22 or 23 percent, but I would have to check those numbers.

Chairman BYRD. Your profile indicated that undocumented aliens tend, as a group, to be young adults and predominantly male, with a result that a much lower percentage of the population is school-age children, something I think that must be considered

in reviewing the States' claims. You have heard the claims of the States.

Mr. ROBINSON. Yes; I have not read carefully the available testimony, but I am aware, in general.

Chairman BYRD. Have you seen the documentation for the lawsuits against the Federal Government that have been filed by California and Florida?

Mr. ROBINSON. No; I have not really looked at that closely.

Chairman BYRD. These claims are based upon estimates of illegal alien populations receiving benefits in those States. Could you comment, to the extent that you are able to, on the estimates and methodologies provided in this documentation, even though you have not seen the documentation?

Mr. ROBINSON. Again, as I said earlier, I have not studied that carefully, so I really would like to be able to get back to you on that.

Chairman BYRD. Does the Census Bureau break down their demographic distribution beyond the State level?

Mr. ROBINSON. That is below the State level?

Chairman BYRD. Beyond the State level, so that we can also understand the scope of illegal immigrant communities that exist in major metropolitan areas such as Los Angeles or Miami.

Mr. ROBINSON. No; we have not produced any illustrative estimates of undocumented population below the State-level estimates that I have discussed.

Chairman BYRD. Will you be doing a final evaluation of the illegal immigration issue as part of your final study of the 1990 census data?

Mr. ROBINSON. Yes; we are continuing to conduct research to improve and update our estimates based on a detailed analysis of decennial census data on the foreign born.

Chairman BYRD. How different do you think those estimates will vary from the initial data that were reported?

Mr. ROBINSON. We don't have the final results, but it is my judgment that the estimates for 1990 will be somewhat lower than the estimate I cited of 3.3 million. We also may be changing our estimate of net increase in the population. Our current estimate is 200,000. That might change. But I do not expect any dramatic changes in our numbers.

Chairman BYRD. What steps could we in the Congress take, if any, to help to you to develop a reliable data base in this area of undocumented aliens, and how could the States be more helpful in your data collection and analysis problems?

Mr. ROBINSON. The current methodologies involve the use of administrative data and certain data that is collected, but it is a policy question about the allocation of resources that can be put to bear on this. One thing the Census Bureau has done is to be able to update our estimates. We are asking questions on citizenship and nativity on a current population survey which would provide a new basis for updating our estimates.

Chairman BYRD. Well, let us see, maybe I did not understand you. Let me repeat the question. What steps could we in the Congress take, if any, to help you to develop a reliable data base in this area of undocumented aliens?

Mr. ROBINSON. It is a very difficult population to estimate, and our current methods, for instance the residual methodology, depend on detailed data on country of birth, citizenship, from either the census or current population survey. So we need to continue to provide those questions in the census or the CPS. The INS has developed some new methods to estimate the population. They use some administrative data from INS. So they would need continued support in the production of their data bases.

Chairman BYRD. How could the States be more helpful in your data collection and your analysis problems?

Mr. ROBINSON. Since my focus is more on a national level, I have not really thought out completely how the States could help, but I could think about that and report back on that.

Chairman BYRD. Well, have you thought more about my first question? What steps could we in the Congress take, if any, to help you to develop a reliable data base?

Mr. ROBINSON. Resources are always a big problem. Resources and the commitment to help encourage this research would be helpful.

Chairman BYRD. Well, I am sure that I have overextended my questions. I have one more. Let me try to understand these hieroglyphics. The estimates that are included in the California lawsuit are that 50 percent of the undocumented aliens reside in California. How much does your best estimate differ from this?

Mr. ROBINSON. This research is a continuing process, and our current estimates show a range in the distribution of undocumented in California from 38 to 45 percent.

Chairman BYRD. So your estimates are considerably below those that are included in the lawsuit—52 percent, namely, of undocumented aliens residing in California, that is what the lawsuit says.

Mr. ROBINSON. Our estimates are lower.

Chairman BYRD. Senator Feinstein.

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

Mr. Robinson, I think this is very helpful and I appreciate it very much. I have got a couple of questions, but let me see if I—taking your chart, you say that in 1994 there are 3.5 million to 4 million illegal aliens in our country. In my State, 1.3 million to 1.8 million, which puts California in a tier all by itself and accounts for from 38 to 45 percent of the national total, is that correct?

Mr. ROBINSON. That is correct.

Senator FEINSTEIN. My question is, Do you utilize any data from counties? Because what we find that certain counties like Los Angeles are very heavily impacted. The estimate is that up to 1 million people are in just one county alone. Do you use any of that county data?

Mr. ROBINSON. No; we do not. Again, our focus has been—the nature of this research has been first to try to grapple with the national level estimates. Now, there has been a lot of interest at the State level, and we have not done any research to focus on trying to estimate the population at the State level.

Senator FEINSTEIN. So no county data is factored in.

Mr. ROBINSON. No county data on the undocumented.

Senator FEINSTEIN. Do you factor in visa overstays?

Mr. ROBINSON. Yes; the INS methodology does. Our method is different. It does not use overstayer data, but the method that INS—

Senator FEINSTEIN. Let me understand. In this figure are visa overstays included?

Mr. ROBINSON. If you look at the chart, the third and fourth column are labeled "Estimates based on INS derivation."

Senator FEINSTEIN. Based on.

Mr. ROBINSON. It is the number. For California, the percentage is 43.1. It implies a number of 1.5 million. That is the set that uses the INS methodology.

Senator FEINSTEIN. With visa overstays.

Mr. ROBINSON. With visa overstayers, yes.

Senator FEINSTEIN. All right. Now, we have, if I understand it, about 7 million visas a year that the U.S. Government issues.

Mr. ROBINSON. I do not work on the visa data, so I am not sure of the numbers.

Senator FEINSTEIN. Of which I am told only a small portion, maybe 2 percent, are overstays. But what number of overstays do you account for in these figures?

Mr. ROBINSON. I am sorry, I am not familiar with the specifics of that methodology. That would be something that an Immigration and Naturalization—

Senator FEINSTEIN. May I ask that you answer that question?

Mr. ROBINSON. Yes; I could get back to you on that.

Senator FEINSTEIN. I would like to know the exact number of visa overstays that are incorporated in these numbers, if I might. [The information follows:]

[CLERK'S NOTE.—The information is being retained in the committee files.]

Senator FEINSTEIN. I would like now to discuss school-age children. You mentioned that you believed 20 percent of any State's illegal population were school-age children. That most were single men, I take it, but 20 percent of the population is probably school-age children.

Mr. ROBINSON. According to our estimates for 1980, 20 percent of the undocumented population were school-age children. This does not talk about the children of the resident population.

Senator FEINSTEIN. Do you have any more specific statistics separate from the larger category of school-age children that might give us an idea per State how many school-age children there are?

Mr. ROBINSON. In an article that was published on the State estimates for 1980, there were some age distributions shown for specific States. I am not familiar with that, but I could check and get back with you to see how that 20 percent varied across States.

Senator FEINSTEIN. Right. If you could, I would appreciate very much a U.S. total and the first tier total, which is all California. [The information follows:]

[CLERK'S NOTE.—The information is being retained in the committee files.]

Chairman BYRD. Would the Senator yield?

Senator FEINSTEIN. Certainly.

Chairman BYRD. Has the Senator finished with that particular question.

Senator FEINSTEIN. Yes; go ahead on that part.

Chairman BYRD. Looking at the two tables, one has a national estimate of 3.5 million undocumented residents, and the other one is based on a national estimate of 4 million. In the case of California, in the table that is based on the estimate of 3.5 million, California would have, what, 1,561,000?

Mr. ROBINSON. If one was only looking at the estimates that pertain to the 3.5 million nationally, California's range would be 1.3 to 1.6.

Chairman BYRD. 1.3 to 1.6.

Mr. ROBINSON. 1.3 is the number in the sixth column.

Chairman BYRD. Yes.

Mr. ROBINSON. If one goes and says let us use the distribution based on the 1980 census and IRCA, you get a higher number.

Chairman BYRD. Where do you get the 1.6?

Mr. ROBINSON. In the second column, 1.56 rounds to 1.6 million.

Chairman BYRD. Oh, I see. So if you are estimating the percentage of school-age children—I believe you said 20 percent, did you?

Mr. ROBINSON. That is a national number from 1980.

Chairman BYRD. Well, would you then—you are attempting to give Senator Feinstein an estimate, at least. Would you say 20 percent of 1.6 or 20 percent of the 1.3, I guess it is.

Mr. ROBINSON. Well, yes, you could apply 20 percent to any of those numbers.

Chairman BYRD. Depending on which—

Mr. ROBINSON. We do not know which one is better than the other. It is a range of numbers.

Chairman BYRD. Depending upon which column you select.

Mr. ROBINSON. Yes.

Chairman BYRD. So you can just take your pencil and paper and figure it out that way, 20 percent?

Mr. ROBINSON. That is right.

Chairman BYRD. Thank you for yielding.

Senator FEINSTEIN. Thank you, Mr. Chairman. As one who was mayor of a city with a large population of immigrants, San Francisco, during the 1980 census when the census was taken, I can tell you with certainty that there was a substantial undercount. This was a huge issue all through many of the big cities. And, as you know, anybody from another country is very reluctant to give data officially to anybody, no matter what a census taker is willing to say.

In my judgment, based on my personal experience of having gone through a very traumatic 1980 census, which was important to us because all our formula was based on numbers, I do not believe that the census data is reliable data to pick up illegal immigrants because I just do not believe you can get true numbers. I think they substantially undercount.

What other data is incorporated to balance that?

Mr. ROBINSON. In terms of the estimate of the undocumented population, it is true that, using the residual method, the basic estimates that are developed are for those counted in the census. We have to make assumptions about those who are not counted, so that is a limitation of this residual technique.

The estimates developed by the new technique of the Immigration and Naturalization Service produce direct estimates. They do not have to deal directly with the undercount. But that is another reason that the application of some of these techniques to lower levels of geography have even more limitation, and you have to deal with different things that could be going on—for example, is there a differential undercount across the country or is it higher in some places versus the other.

Senator FEINSTEIN. In either Census data or INS data for the purpose of this chart, was undercount considered?

Mr. ROBINSON. No; undercount is not considered explicitly. These distributions were based on the estimates of undocumented immigrants counted in the census by State.

Senator FEINSTEIN. That is, I think, a basic problem with all of the data we are going to get. I think INS data, because they simply do not have the means to know, is low. I think census data is low. And that is why I think it is extraordinarily important that you get county data and evaluate it. I am not saying accept it, but at least evaluate it and draw some comparisons, because I think there are wide differentials between these data classifications.

But thank you very much.

Thank you, Mr. Chairman.

Chairman BYRD. Thank you, Senator.

Do the INS data on illegal immigrants agree with the Census data?

Mr. ROBINSON. Yes; in terms of relative magnitude, they are fairly consistent.

Chairman BYRD. Do you use different methodologies from those that are used by INS?

Mr. ROBINSON. Yes; they are essentially based on different methodologies.

Chairman BYRD. Why would that be? Is that good or not good?

Mr. ROBINSON. I would say that is good, and that we are always looking—since this is such a difficult population to estimate, the more methods out there the better. If they agree with one another, we have a better feeling for the plausibility of the numbers.

Chairman BYRD. This is not, by any means, an exact science, is it.

Mr. ROBINSON. No; it is not.

Chairman BYRD. How do you arrive at the annual flow of migrants into California?

Mr. ROBINSON. We do not have a direct estimate of the net increase in the undocumented population for any given State. The way the Census Bureau's estimates were developed, we have a component of change of 200,000 a year at the national level, and that number is combined with other immigration components and carried down to the State level, but we do not produce any specific estimate of net change for any State. That is a component that is specific to the undocumented population.

Chairman BYRD. What percent is of Mexican origin that flows into the State of California?

Mr. ROBINSON. Again, I am not aware of any estimate we have specific to the Mexicans going into California. We have an estimate—an assumption about the number of Mexicans undocu-

mented at the national level. I could get back to you on what those numbers are.

Chairman BYRD. Very well.

[The information follows:]

[CLERK'S NOTE.—The information is being retained in the committee files.]

Chairman BYRD. Senator Feinstein, do you have any other questions?

Senator FEINSTEIN. I have one more, Mr. Chairman.

Chairman BYRD. Please proceed.

Senator FEINSTEIN. Thank you very much.

On April 28, State and Federal immigration experts met to determine the number of illegal immigrants in the United States. However, this meeting did not produce a consensus figure for all States to use in estimating the number of illegal immigrants, and the Governor, the INS, and the Census Bureau continue to use different figures. I am talking about the Governor of California now.

According to the most recent estimates available from the INS, there are 3.85 million illegal immigrants currently in America, including the 1.6 million that you have pointed out in California. The Census Bureau representative gave a range of estimates of 1.3 to 1.8 million. The Governor's estimates are still based on the assumption that there are over 2 million illegal immigrants in the State, roughly one-half the national total.

Now, my question is somewhat like the chairman's. Why can't we agree on a set of figures and come up with a consensus so that we end this adversarial jousting that goes on around numbers?

Mr. ROBINSON. I think that is what we are trying to do. One thing that came out of that conference is that when you compare what we know now on the number of undocumented immigrants—and I am talking now at the national level—we have a much greater understanding of the relative numbers now than we did 15 years ago.

But the methods for estimating the number of undocumented at the State level is less developed. It is a goal to try to, if we could come up with a consensus, and we are conducting research on trying to improve our estimates. There is not enough out there right now, not enough estimates and not enough evaluation of the methodologies to have reached a point where there is any consensus.

Senator FEINSTEIN. Thank you.

Thank you.

Chairman BYRD. Thank you, Mr. Robinson.

Our next witness was going to be a little late, I believe. Our next witness is to be Ms. Doris Meissner, the Commissioner of the Immigration and Naturalization Service. Is the Commissioner here yet?

The committee will stand in recess awaiting the call of the Chair. I am told that Ms. Meissner will be here at 4 o'clock. Therefore, the committee will stand in recess until 4 p.m. today.

[A brief recess was taken.]

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT OF DORIS MEISSNER, COMMISSIONER

ACCOMPANIED BY:

JAMES PULEO, EXECUTIVE ASSOCIATION COMMISSIONER FOR EXAMINATIONS

SUSAN JACOBS, ASSISTANT COMMISSIONER FOR BUDGET AND FINANCE

RON COLLISON, ASSOCIATE COMMISSIONER FOR INFORMATION RESOURCES MANAGEMENT

OPENING STATEMENT

Chairman BYRD. The committee will resume its session. I am pleased to welcome our final witness this afternoon, Mrs. Doris Meissner, the Commissioner of the Immigration and Naturalization Service. Mrs. Meissner is the first INS Commissioner in many years to bring such an extensive and distinguished background in immigration issues to bear on this very complex policy and administrative problem.

Having served as acting Commissioner and then Executive Associate Commissioner of the INS from 1981 to 1985, Mrs. Meissner has a unique perspective on the past and current missions and abilities of the Immigration and Naturalization Service. Since 1986, Mrs. Meissner served as senior associate and director of the immigration policy project at the Carnegie Endowment for International Peace, so she also brings an objective academic perspective to the issue.

Critics have charged the INS with being too large, too cumbersome, and ineffective in addressing the problems of immigration. To her credit, Mrs. Meissner has not shirked from the task of reorienting and reorganizing the INS to place more effort and manpower where it counts, along our borders and at our airports. At least that is the avowed purpose of the organization, the reorganization. I have been around a long time. I have seen many reorganizations, and not always do they produce the desired results. I hope that this one will.

The INS is also attempting to address the issues of data collection and fraudulent document prevention. I look forward to hearing the details of your plan and your initiatives in the fiscal year 1995 budget, and I hope that you will address issues that need the support of the Congress and the States in order to more effectively deal with the problems of illegal immigration.

Before you proceed, Madam Commissioner, would you present your associates at the table, and then we would be glad to have your statement.

Ms. MEISSNER. Thank you, Senator. I am joined today, on my left, by Jim Puleo, who is our Executive Associate Commissioner for Examinations; by Susan Jacobs, who is our Assistant Commissioner for Budget and Finance; and by Ron Collison, who is our Associate Commissioner for Information Resources Management.

Chairman BYRD. Thank you.

Ms. MEISSNER. Thank you for inviting me here today to discuss the relationships between the Federal Government and the States on immigration issues.

As you are aware, the States with large foreign-born populations currently have unprecedented levels of interest in immigration issues. I would like to try to put some of this interest in perspective and provide you with background on the initiatives that the administration is undertaking to reduce pressures on the States by increasing our control of unlawful migration, while facilitating entry of those persons who come legally.

First, it is important to recognize that over the last two decades the number of persons coming to the United States from other countries has been on the rise. We are admitting larger numbers of immigrants through the legal system. Under the provisions of the Immigration Reform and Control Act of 1986, we regularized the status of nearly 3 million persons.

Nonimmigrant tourists, students, and other temporary visitors are coming to the United States in growing numbers. While most of these persons come legally, sizable numbers of undocumented migrants remain in the United States each year, and that number is about 300,000 annually.

Second, it is important to remember that new immigrants, like citizens, have always clustered in just a few States and within just a few areas of those States. Prior to 1976, most immigrants went to New York. Since that time, California has been the State drawing the most new immigrants.

Third, unlike the early phases of this immigration in the 1970's and the early 1980's, which included large numbers of single workers, current migration flows have matured and are typically family groups and family members of persons already here. These persons are more likely to require services such as health care and education.

Having said all this, I would like to reiterate that I do not believe that the response to these developments lies in major changes to immigration policy. Comprehensive reforms to immigration policy have been made through two major pieces of reform legislation in the last 8 years. The Immigration Reform and Control Act of 1986 and the Immigration Act of 1990 were the product of years of research and work, and were generally well thought out by the Congress.

What we do need are effective responses including some administrative changes, and additional resources in certain key areas.

Your hearing today evidences congressional recognition of the problems related to immigration faced by the States. I would like to describe some of the things that the administration has been doing in partnership with heavily impacted States to address their concerns about the impact of immigration.

In January, Leon Panetta, the Director of the Office of Management and Budget, arranged for Attorney General Reno, other Cabinet members, and myself to meet with the Governors of the seven States most affected by immigration to discuss their concerns. Those States were California, New York, Texas, Florida, New Jersey, Illinois, and Arizona.

Working through OMB and the Department of Justice, the administration has funded the Urban Institute to evaluate the methodologies used by the States to estimate the costs of providing services to undocumented migrants, and to develop a standard methodology for determining the costs and revenues associated with this population.

In April, the administration sent you a \$350 million budget amendment for the fiscal year 1995 budget to establish a State Criminal Alien Assistance Program with the Department of Justice. This budgetary proposal, if approved by the Congress, would represent a significant improvement in our efforts to have States and the Federal Government working together on immigration.

The INS works directly with States to limit illegal alien access to various Federal benefit programs administered by the States. The Systematic Alien Verification for Entitlement Program, which we call SAVE, mandated by the 1986 act, requires the verification of the immigration status of aliens who apply for benefits under certain federally funded programs.

Absent waivers from the Federal agency, States must utilize SAVE as they administer the Food Stamp Program, aid to families with dependent children, the Medicaid Program, unemployment compensation, and educational assistance.

While the above programs have mandated participation, any Federal or State entitlement issuing authority or licensing bureau may apply for participation in the SAVE Program. The Arizona health care cost containment system, for example, is a nonmandated agency which currently participates in SAVE.

Effective July 1, the California Department of Motor Vehicles will start accessing the INS data base to determine whether individuals applying for drivers licenses and identification cards are legally present in the United States.

I would like to move on now to describe the initiatives the administration began last year to improve the administration of our immigration laws, per se.

We feel that the fiscal year 1995 immigration initiatives announced by the Attorney General in February, which include a \$368 million, departmentwide appropriations request for critical investments can provide the Immigration and Naturalization Service with the wherewithal to move forward in an integrated, comprehensive, and meaningful way in five important areas.

Those five areas are border control, removal of criminal aliens, reform of the political asylum system, reducing the magnet of job opportunities, and naturalization.

The initiatives represent a substantial investment in INS infrastructure, focusing heavily on a carefully balanced mix of people, technology, and automation. Moving INS technologically into the 21st century with new equipment and automation is an underlying principle in the initiatives, and it is critical to our ability to be suc-

cessful in better accomplishing our mission within the existing statutory framework.

We have made significant progress in implementing the Border Patrol enhancement that we received for the fiscal year 1994 budget. I have just returned from San Diego and I recently visited El Paso, which are the places we are concentrating our efforts at this time. In both, the goal of preventing illegal immigration is beginning to show results.

Newly built roads along the border allow agents greater mobility to more easily intercept drug and alien smugglers. Border fences are proving to be very effective, particularly in those areas along the border which do not benefit from natural barriers.

This year, we have expanded fencing along the California and Arizona borders in particular. In San Diego, with support of the California National Guard, 3½ miles of stadium-type lighting have been added and installed near Otay Mesa.

The Attorney General and I recently unveiled new technology which is critical to making our agents more efficient, allowing them more time for line duty, and minimizing paperwork, making them more effective by allowing for positive identification of those we apprehend.

The fiscal year 1995 immigration initiative, coupled with the fiscal year 1994 enhancement, will place 1,010 additional Border Patrol agents on the line, providing a significantly strengthened presence at high-risk border points to prevent illegal entry.

Immigration enforcement in the interior of the United States is based on effective collaboration with other Federal, State, and local agencies as well as employer sanctions to curb illegal alien participation in the American labor market.

Over one-half of the illegal alien population initially entered the United States through a legal process, but then overstayed their period of admission. Given the diverse nature of the American population, there is no effective means to locate and arrest these aliens on a wholesale basis.

Therefore, our attention is directed first toward persons who commit criminal acts and, second, toward denying the job opportunities which attracted most of these aliens to the United States and which sustained them once here.

To remove criminal aliens efficiently, we have requested \$27 million to expand the institutional hearing program in the five States with the largest concentration of incarcerated aliens and in several Federal prison facilities. This program allows the INS to assume custody and promptly remove deportable aliens when they complete their sentences.

We are also working with State governments in California, New York, Florida, Texas, and Illinois to improve these institutional hearing operations.

For example, in New York we began implementing a new IHP plan in April that is consolidating operations into three New York correctional facilities. In the first 2 months of operation, immigration judges issued 180 final orders of deportation, compared to 373 in all of last year.

On April 7, Gov. Lawton Chiles and I entered into a memorandum of understanding under which the Governor will commute the

sentences of up to 500 nonviolent criminal aliens upon completion of deportation hearings so that they may be deported immediately.

In addition, the Office of Justice Programs awarded a \$90,000 grant to the National Criminal Justice Association to study State executive clemency authority to expedite the deportation of criminal aliens in other States.

Last summer, President Clinton announced a broad-based effort to deal with alien smuggling and abuse of the asylum system. In July, he transmitted legislation to Congress that included important provisions to increase criminal penalties for alien smuggling, expand forfeiture authority for alien smuggling, authorize wiretap authority for alien smuggling investigations, and authorized use of the RICO statute to pursue alien smuggling organizations. We continue to work for enactment of these provisions.

We already have seen a decrease in alien smuggling activity. The number of illegal boat migrants has dropped as a result of concerted administration actions taken over the past 1½ years. This past week, we successfully intercepted a boat load of Chinese illegal immigrants. Although the crew and enforcers within the group will be brought for prosecution, the Department of State is arranging the direct return of over 100 illegal migrants back to China.

Although the current illegal immigration debate has become preoccupied with a furor of charges about the cost of social services, the lure of jobs remains the single most compelling incentive for illegal immigration, and concentrating enforcement on those who employ illegal workers is the best way to counteract the pull within the country that encourages illegal immigration.

Our budget request of \$38 million will help reduce the magnet of illegal job opportunities by, among other things, targeting high-risk industries and aggressively pursuing sanctions against employers who repeatedly hire unauthorized workers.

INS is committed to providing employers with information about their responsibilities, and to making the employment authorization process as understandable as possible. We are excited about the potential of the telephone verification system to aid employers in verifying work authorization. As you may know, INS published a regulation in November to reduce the number of documents for use on the I-9 employment eligibility verification form from 29 to 13.

We also have successfully worked to decrease the number of airline passengers arriving in the United States with fraudulent or no immigration documents. In the past, these passengers often requested to apply for asylum. Because INS had severely limited detention space near the busiest international airports, these passengers often were released into the community, and many failed to appear for their asylum hearings.

Today, however, I can report to the committee that we have reduced the number of airline passengers who even board an airplane bound for the United States with fraudulent or no U.S. immigration documents. We have done this through our Carrier Consultant Program under which INS trains foreign government officials and airline personnel to screen passengers before boarding.

As a result, at JFK the number of asylum seekers declined by 30 percent from fiscal year 1992 to fiscal year 1993. The decline has continued, with only 4,000 mala fides arriving at JFK during

the first 6 months of this fiscal year. That represents a decrease of 35 percent over fiscal year 1993.

Our current asylum system represents the weakest link in the chain of challenges that we face today. The system must be timely in accomplishing twin objectives—delivering protection for genuine refugees, and denying the claims of those who are ineligible, less delays become an invitation to misuse the system.

We have issued a proposed regulation to significantly streamline asylum procedures, providing a framework which can allow INS to stay current with incoming applications and focus our enforcement efforts on fraudulent applications.

Critical to the success of these reforms is the \$64 million of funding under the crime control fund for an increase in personnel to process asylum applications in a timely manner. This will mean increases for INS asylum officers, for the Executive Office for Immigration Review, for the U.S. attorneys, and for the Civil Division. It also includes \$10 million to remove denied asylum applicants.

We are also moving against unscrupulous immigration counselors who provide abusive, boilerplate applications. INS is actively pursuing a set of large-scale asylum fraud cases, the majority of which are pending grand jury proceedings.

In March, our Newark office completed a 9-month investigation which resulted in the arrest of two asylum fraud facilitators who were charging clients between \$700 and \$1,100 for employment authorization documents obtained by filing fraudulent asylum applications.

As I stated earlier, our approach to immigration is two-pronged—facilitating legal immigration and curbing illegal immigration. Our proposal to encourage naturalization through public education and streamlined INS procedures is a response to the need to help bring newcomers into full participation in our society.

The timing of this resource request is critical, as 1994 is the first year the legalization population begins to become eligible for naturalization. The resources requested will provide the INS with sufficient personnel to adjudicate the increased number of applications for naturalization, without which the backlogs could grow.

This initiative contains funding which will be used for cooperative agreements with community-based ethnic group networks and educational institutions to do public outreach, provide language and civics instruction, and assist in the preparation of naturalization applications. Their efforts will make the INS more productive.

Let me conclude by saying that I welcome this opportunity to present the actions this administration has taken to address immigration problems. I am pleased that the committee is taking such great interest in the way that immigration, particularly illegal immigration, affects State and local governments.

Our immigration initiatives will help the service to do its job better, lessening the burden on States. The funding in the crime control fund is critical to enhance our efforts to control illegal immigration, and I appreciate any support that you can provide in this regard.

Thank you very much, and I am pleased to answer your questions.

Chairman BYRD. Thank you, Madam Commissioner. Your statement in its entirety will be included in the record as though read.
[The statement follows:]

STATEMENT OF DORIS MEISSNER

Mr. Chairman and Members of the Senate Appropriations Committee:

Thank you for inviting me here today to discuss relationships between the Federal Government and the states on immigration issues. As you are aware, states with large foreign-born populations currently have an unprecedented level of interest in immigration issues. I would like to try to put some of this interest in perspective and provide you with background on initiatives we are undertaking to reduce pressures on the states by increasing our control of unlawful migration while facilitating entry of those persons who come legally.

First, we must recognize that over the last two decades, the number of persons coming to the United States from other countries has been on the rise. We are admitting larger numbers of immigrants through the legal system, and following passage of the Refugee Act of 1980, we have continued to admit refugees and have been the recipient of spiraling numbers of asylum applications each year. Under the provisions of the Immigration Reform and Control Act of 1986 we regularized the status of nearly 3 million persons. Nonimmigrant tourists, students, and other temporary visitors are coming to the United States in growing numbers. While most of these persons are coming legally, we continue to receive sizeable numbers of undocumented migrants each year--about 300,000 annually based on our best estimates. I tell you this not to sound an alarm but to describe the new reality of the United States as part of an increasingly international society.

Second, it is important to remember that new immigrants, like citizens, have always clustered in just a few states, and within just a few areas of those states. This phenomenon has always resulted in disproportionate impacts. Prior to 1976, most

immigrants went to New York; since that time, California has been the state drawing the most new immigrants. Currently, almost three-quarters of new immigrants go to six states--California, New York, Texas, Florida, New Jersey, and Illinois. Eighty-five percent of undocumented migrants are estimated to reside in these same six states.

Third, unlike the early phases of this immigration in the 1970s and early 1980s which included large numbers of single workers, current migration flows have matured and are typically family groups and family members of persons already here. These persons are more likely to require services such as health care or education. In some cases immigrants have moved into areas where population had been static or declining, thus causing greater demands on shrinking school, health care, and social systems. These situations have been exacerbated in some states by decisions made earlier about taxation support for public services and generally tight budget constraints at all levels of government.

Having said all this, I would like to reiterate that I do not believe that the remedy to these problems lies in major changes to immigration policy. Comprehensive reforms to immigration policy, which historically occur only every 25 years or so, have been made through two major pieces of reform legislation in the last 8 years. The Immigration Reform and Control Act of 1986 and the Immigration Act of 1990 were the product of years of research and work and were generally well thought out. What we do need are effective responses, including some administrative changes and additional resources in a few key areas.

Reimbursement to States

Before describing the specific operational initiatives the Administration is undertaking, I would like to describe some things we have been doing in partnership with heavily impacted States to address their concerns about the impact of immigration within their jurisdictions.

In January, Leon Panetta, Director of the Office of Management and Budget (OMB), arranged for Attorney General Reno, other Cabinet members and myself to meet with the governors of the seven states most affected by immigration to discuss their concerns. These states are California, New York, Texas, Florida, New Jersey, Illinois, and Arizona. Working through OMB and the Department of Justice, the Administration has funded the Urban Institute to evaluate the methodologies used by the states to estimate the costs of providing services to undocumented migrants and develop a standard methodology for determining the costs and revenues associated with this population. We also agreed to work with you, the Congress, to raise your awareness of about the legitimate needs of these states. Your hearing today evidences Congressional recognition of the problems related to immigration faced by the states.

There is considerable debate and discussion about how much States currently spend on illegal immigrants. The Urban Institute's study will propose an appropriate methodology to ascertain what the States' costs are. This will facilitate a comparison of the absolute costs and revenues as well as the relative burden felt by individual states. The Institute's report is near its final stage. The Administration will make available to Congress these findings when they are published.

In April, the Clinton Administration sent you a \$350 million FY95 Budget Amendment to establish a \$350 million State Criminal Alien Assistance Program within the Department of Justice. This budgetary proposal, when approved by Congress, will represent a significant improvement in our efforts to have States and the Federal government working together on immigration. When Congress passed the Immigration Reform and Control Act of 1986, an important, but never funded, provision directed the Attorney General to reimburse States for their costs to incarcerate undocumented criminal aliens.

The State Criminal Alien Assistance Program is a clear example of this Administration's commitment to form a partnership with States to improve our immigration programs and to relieve the States of some unwarranted costs. It is an important part of our comprehensive criminal alien strategy which I will discuss later in my statement.

The INS works directly with States to limit illegal alien access to various federal benefit programs administered by the States. Begun as a pilot program in 1984, the Systematic Alien Verification for Entitlement Program (SAVE) was mandated by the Immigration Reform and Control Act of 1986. That bill required the verification of the immigration status of aliens applying for benefits under certain Federally-funded programs (Public Law 99-603, Part C., Section 121). Absent waivers from the Federal agency, States must utilize SAVE as they administer the Food Stamp Program, Aid to Families with Dependent Children, Medicaid Program, and Territorial Assistance Programs, Unemployment Compensation, Educational Assistance, and Housing Assistance.

While the above programs have mandated participation, any Federal or State entitlement issuing authority or licensing bureau may apply for participation in the SAVE program. The

Arizona Health Care Cost Containment System is example of the non-mandated agencies which currently participate in SAVE. Effective July 1, the California Department of Motor Vehicles will start accessing the INS data base to determine whether individuals applying for driver licenses and identification cards are lawfully present in the United States. As with all organizations being serviced through the SAVE program, the California Department of Motor Vehicles will pay a fee to the contractor which maintains the external customer access data base and provides customer support, communication lines, and training.

I would now like to describe the initiatives we began last year to improve the administration of our immigration laws. Many will become concrete through appropriations sought in our FY95 Budget Request. We believe that these actions taken to strengthen border control, reduce incentives for illegal immigration, remove criminal aliens, reform the asylum process, and improve service to the public, taken together, will reduce many of the immigration pressures now felt by the states. They will substantially reduce new flows of undocumented migrants and reduce the incentives for those already present unlawfully to remain. For those here legally, these initiatives will provide improved service to ensure that immigration benefits are accorded expeditiously.

Administration's Immigration Initiatives

We feel that the FY 1995 immigration initiatives announced by the Attorney General in February, which include a \$368 million, Department-wide appropriations request for critical investments, can provide the Immigration and Naturalization Service (INS) with the opportunity to move forward in an integrated, comprehensive and meaningful way in five very important areas -- border control, removal of criminal aliens,

asylum reform, reducing the magnet of job opportunities and naturalization. The initiatives represent a substantial investment in INS infrastructure, focusing heavily on a carefully balanced mix of people, technology and automation directed at strengthening the aspects of the immigration system needing the most attention. Moving INS technologically into the 21st Century with new equipment and automation is an underlying principle in the initiatives and is critical to our ability to be successful in better accomplishing our mission within the existing statutory framework.

INS has traditionally accomplished its mission through labor-intensive processes, adding more personnel but not providing the tools and supporting infrastructure needed to do an effective job. A new approach is inherent in these immigration initiatives. We will add more officers, because more are needed. However, we will no longer take piecemeal steps to address the problems facing the INS. These initiatives will provide the technology, automation, and information networking with other Federal and state agencies that will intensify the impact and effectiveness of our resources and allow the Service to work smarter.

Strengthen Border Control

I am pleased to report that we have made significant progress in implementing the Border Patrol enhancement we received for FY 1994. As soon as it became evident that Border Patrol might be receiving a substantial increase in FY 1994, we began reworking our recruitment and hiring approach as an Office of Personnel Management "lab" under the auspices of the Vice-President's National Performance Review. We are very happy with the results. Forty newly trained Border Patrol agents were deployed to San Diego in April. This month 22 newly trained

agents were deployed to San Diego and 22 to El Paso. Classes are scheduled and already recruited agents are prepared to begin the 18-week basic training at the Border Patrol Academy in Brunswick, Georgia throughout this year. Classes of approximately 50 agent trainees will begin at the rate of at least one per month between now and the end of the fiscal year, resulting in the deployment of 350 new agents to San Diego and El Paso. Further, before the end of the fiscal year, support personnel and contractors will be in place, allowing for the redeployment to direct border enforcement tasks of 270 additional agents in FY 1994 in all of our Southwest border sectors.

In addition to personnel accomplishments, we have made great strides with military-supported construction projects. Newly built roads along the border allow agents greater mobility to more easily intercept drug and alien smugglers. Border fences are proving to be very effective, particularly in those areas along the border which do not benefit from the natural barriers, rivers, mountains, or desert. This year, we have expanded fencing along the California and Arizona borders in particular. In San Diego, with support of the California National Guard, 3.5 miles of stadium-type lighting have been installed near Otay Mesa. This lighting has served as an important deterrent to night entry, and has significantly increased safety in the area and working conditions for our agents. These examples illustrate the physical infrastructure improvements which enhance our ability to control the border.

The Attorney General and I recently unveiled new technology which is critical to making our agents more efficient, allowing them more time for line duty and minimizing paperwork, and making them more effective by allowing for positive identification of those apprehended. A prototype of the ENFORCE automated case tracking system, is being tested in San Diego throughout this

calendar year . The ENFORCE system compiles 43 forms into an integrated computer database which will significantly reduce the amount of time agents will spend processing aliens. The AFIS (Automated Fingerprint Identification System) is also being tested, and in this new configuration, will be immensely useful to the agents as it will act as a "pointer" to identify repeat or criminal offenders within INS databases. It also makes possible recidivism analysis to know the actual number of persons arrested versus total apprehensions.

The FY 1995 immigration initiative to strengthen border control bolsters enforcement at the border by building on our accomplishments in FY 1994. Coupled with the FY 1994 enhancement, this initiative will put 1,010 additional Border Patrol agents on the line to provide a visible presence at high-risk border areas to strongly discourage illegal entry. Significant equipment and technology enhancements will enable the INS to make better use of automation in combatting alien smuggling operations, while at the same time freeing agents from time consuming paperwork, and allowing agents to spend more time on the line. The 1,010 will be reached by adding onto the 620 agents on the line in FY 1994, 150 new agents and 240 redeployed in FY 1995 based upon efficiencies of new automated systems.

We are also moving forward administratively to increase the number of land border inspectors for FY 1995. A regulation was published this year to assess charges for certain services provided at land border ports-of-entry. New automation efforts, which will be available at land and air ports-of-entry will provide our inspectors with critical information on criminal aliens and other malafide entrants, and will allow our land border inspectors to make more informed entry decisions. The increased automation will make our inspectors better able to

facilitate the entry of bonafide travelers and prohibit the entry of malafide entrants.

Investments in the Interagency Border Information System (IBIS) are upgrading its capacity to inform border inspectors about criminals, terrorists, and other excludable applicants for admission. In May, INS inspectors at the Miami International Airport intercepted Alain Daniel Mesili, a French national and international terrorist sought by the U.S. and Bolivian governments for the attempted murder of Marine guards at the American Embassy in La Paz, as well as kidnapping, murder, terrorism and insurrection. We plan to expand IBIS in FY 1995 and also provide direct linkage for overseas American consulates to this law enforcement data base.

Interior Enforcement

Immigration enforcement in the interior of the United States is based on effective collaboration with other Federal, state and local agencies, as well as employer sanctions to curb illegal alien participation in the American labor market. Over half of the illegal alien population initially entered the United States through a legal process, but then overstayed their period of admission. Given the diverse nature of the American population, there is no effective means to locate and arrest these aliens on a wholesale basis. Therefore, our attention is directed toward persons who commit criminal acts and second, toward denying the job opportunities which drew most of these aliens to the United States and which sustain them once here.

Effectively identifying and removing criminal aliens requires close cooperation across the law enforcement community. INS continues its collaborative efforts with Federal, state and local law enforcement agencies to arrest criminal aliens. Over

115 Special Agents work in the Organized Crime and Drug Enforcement Task Forces in 42 cities. One hundred and fifty other INS investigators work in Violent Gang Task Forces focused on alien gang activity. Since 1993, 2,843 alien gang members have been arrested and over \$156 million worth of narcotics, currency, firearms and other property valued at over \$8 million have been seized. Both Federal and local law enforcement agencies have welcomed INS expertise on the alien community and authority to deport illegal aliens and lawful aliens with criminal convictions.

To remove criminal aliens efficiently, we have requested \$27 million to expand the Institutional Hearing Program (IHP) in the five states with the largest concentration of incarcerated aliens and in several Federal prison facilities. This program allows the INS to assume custody and promptly remove deportable aliens when they complete their sentences. In addition to the proposed increase of 211 investigators, attorneys, immigration judges and related support staff positions to conduct more deportation hearings, we will use video teleconferencing technology to enhance productivity, allowing hearings to be held using video equipment located at detention sites and the judges' court rooms. By reducing the amount of time spent traveling to deportation hearings, judges will be able to conduct more hearings and we will make more cost-effective use of judge and attorney time. In order to rapidly respond to Federal, state and local law enforcement officers requests on alienage of criminals, resources of \$28 million are requested to provide INS with the capability to capture and relay fingerprint information on any individual at any location.

We also are working with the State governments in California, New York, Florida, Texas and Illinois to improve IHP operations. For example, in New York, we began implementing a

new IHP plan in April that is consolidating operations into three New York correctional facilities. Investigators, trial attorneys, and immigration judges permanently will staff these facilities. The program already is a tremendous success -- after in the first two months of operation, immigration judges issued 180 final orders of deportation, compared to 373 in all of last year.

On April 7, Florida Governor Lawton Chiles and I entered into a Memorandum of Understanding, under which the Governor will commute the sentences of up to 500 nonviolent criminal aliens upon completion of deportation hearings so that they may be deported immediately. In addition, the Office of Justice Programs awarded a \$90,000 grant to the National Criminal Justice Association to study State executive clemency authority to expedite the deportation of criminal aliens in other States.

We will improve our processing of requests by law enforcement organizations on criminal aliens by utilizing state-of-the-art fingerprint technology to facilitate their identification. We will link this data to the FBI's NCIC 2000 system. Police officers currently use NCIC, the National Criminal Information Center, to make inquiries about individuals wanted for committing crimes. Under NCIC 2000, police officers will be able to send and receive images, such as fingerprints, and will not be limited to simple text inquiries relating to suspected criminals.

At present, we are on the verge of field testing the National Criminal Alien Tracking Center, which we have renamed the INS Law Enforcement Support Center. This program will be a powerful tool for identifying and processing suspected criminal aliens. The Center will be the single point of contact for law enforcement criminal alien queries, providing a uniform

nationwide INS response to the law enforcement community. The Center will perform name checks against INS and NCIC databases, 24 hours a day, to help law enforcement agencies determine whether criminals arrested for felonies are aliens.

The initial field test of the program will be with the Phoenix, Arizona, police department. In addition, the Bureau of Justice Assistance will award grants of \$200,000 for each of the five States with the highest population of criminal aliens -- California, Florida, Texas, Illinois and New York -- to ensure their coordination with the development of the center.

Anti-Smuggling Efforts

This Administration also has devoted significant attention to deterring alien smuggling and prosecuting smugglers, and our efforts have produced notable results. Last summer, President Clinton announced a broad-based effort to deal with alien smuggling and abuse of the asylum system. In July, he transmitted legislation to Congress that included important provisions to increase criminal penalties for alien smuggling, expand forfeiture authority for alien smuggling, authorize wiretap authority for alien smuggling investigations, and authorize the use of the Racketeering-Influenced Corrupt Organization (RICO) statute to pursue alien smuggling organizations. We continue to work for enactment of these provisions, which will provide us with important tools in our continued fight against smuggling.

We already have seen a decrease in alien smuggling activity. The number of illegal boat migrants has dropped as a result of concerted Administration actions taken over the past year and a half. In the spring of 1993, the Administration formed the Chinese Boat Migrant Task Force with representatives of the

Departments of State, Justice, and Defense and the Coast Guard. This group began monitoring the high seas for vessels attempting to bring illegal migrants to the United States and finding and intercepting those vessels. In addition, INS personnel and U.S. embassy staffs have worked with the People's Republic of China (PRC) and other governments to forestall departures of illegal migrants or their movement through third countries by organized crime groups. These efforts have been quite successful as boat smuggling of Chinese aliens into the United States has substantially decreased from June, 1993, through the present. In addition, the PRC government has been cooperative by penalizing smugglers caught in the PRC and warning local officials not to cooperate in the smuggling endeavors.

Overall, illegal arrivals of boat migrants on U.S. shores have been reduced from boatloads of 100-350 illegal aliens during the spring of 1993 to a minimum. While boat traffic has not completely halted -- arrivals of small numbers of Chinese in Puerto Rico and Haitians in Florida have continued -- those who do arrive illegally are being deported. This calendar year, INS has deported 209 PRC nationals who arrived illegally and is working effectively to return other groups presently detained once their deportation hearings are complete.

As a further deterrence to alien smuggling, INS has been working closely with the U.S. Attorneys Offices and the Organized Crime and Racketeering Section to pursue aggressively the smugglers connected to organized crime syndicates that traffic in human cargo and exploit the asylum system. For example, 20 prosecutions -- against 13 crew members and 7 "enforcers" -- resulted from the incident last June when 300 Chinese aliens arrived illegally in New York on the Golden Venture. All 20 defendants have pled guilty or been convicted of alien smuggling and related conspiracy. In addition, the vessel owner pled

guilty to the maritime offense of misconduct on the high seas for which a life was lost. (At least six Chinese migrants died attempting to reach the shore after the vessel became stuck on a sand bar.)

Since August 1991, U.S. Attorneys have secured additional indictments against 80 other alien smugglers, and 70 already have been convicted. Law enforcement authorities identified 15 major PRC boat smuggling operations from August 1991 to the present. Six of those latest 15 investigations have direct connections to boat cases, and the others involve efforts to target related drug smuggling rings. The most recent investigation began on February 10 in Los Angeles. Since October, 1993, we have identified an additional eight boat smuggling operations in Puerto Rico, involving Chinese and Dominican aliens. Most recently, in May, INS and the Coast Guard prevented the entry into southern California of a Taiwanese ship with 124 Chinese aliens.

INS also recently completed a four-year task force operation targeting a criminal organization specializing in the smuggling of Polish nationals. This operation resulted in the arrest of 89 aliens and the indictment of 16 smugglers. INS agents also seized six tractor trailer trucks, four vans, and over \$3 million in contraband.

Employer Sanctions Enforcement

Although the current illegal immigration debate has become preoccupied with a furor of charges about the costs of social services, the lure of jobs remains the single most compelling incentive for illegal immigration. And concentrating enforcement on those who employ illegal workers is the best way to counteract the "pull" forces within the country that encourage illegal immigration.

Prohibiting the employment of those here illegally has proven more intractable than it would seem. The 1986 employer sanctions law has not worked as well as hoped because undocumented workers can obtain forged documents relatively easily. At the same time, some employers appear to discriminate against "foreign" applicants who are legally here, because they fear employer penalties.

Aided by the deliberations of the Commission on Immigration Reform, the Administration is interested in crafting solutions to this problem. We have begun by including a budget request of \$38 million that will help reduce the magnet of illegal job opportunities by, among other things, targeting high-risk industries and aggressively pursuing sanctions against employers who repeatedly hire unauthorized workers. During FY 1993, INS "employers sanctions" agents arrested 11,989 individuals, up from about 11,400 the previous year.

INS is committed to providing employers with information about their responsibilities and to making the employment authorization process as understandable as possible. We are excited about the potential of the telephone verification system (TVS) to aid employers in verifying work authorization. INS completed the first phase of the TVS demonstration pilot in March, 1993. During the pilot, nine large employers participated in the program to verify work eligibility of job applicants. Patterned after common credit card systems, a "point-of-sale" (POS) telephone gives employers access to the Alien Status Verification Index (ASVI) database for alien employment eligibility data.

At the end of the first phase, each employer who participated indicated that the TVS process overall was beneficial and stated that they even would be willing to pay for

the service. INS now is prepared to expand the project to include 500 additional employers in FY 1995. We also intend to develop a "1-800" hotline to assist employers in fulfilling their responsibilities.

As you may know, INS published a regulation on November 23, 1993 to reduce the number of documents for use on the I-9 employment eligibility verification form from 29 to 13. We have reviewed the comments and are preparing the final rule and modifications to the Form I-9 for publication in the Federal Register later this summer. These changes will become effective six months after publication, allowing time for distribution of the new Form I-9 and conducting an educational campaign to inform the public of these changes. We believe that reducing the number of forms will simplify the verification process, while not creating a burden on citizens or aliens authorized to work in the United States, as they will have ready access to other acceptable documents.

Overseas Deterrence and Illegal Airport Arrivals

We also have successfully worked to decrease the number of airline passengers arriving in the United States with fraudulent or no immigration documents. In the past, these passengers often requested to apply for asylum. Because INS had severely limited detention space near the busiest international airports, these passengers often were released into the community, and many failed to appear for their asylum hearings.

Today, however, I can report to the Committee that, by expanding the carrier consultant program, we have reduced the number of airline passengers who even board an airplane bound for the United States with fraudulent or no U.S. immigration documents. Under this program, INS trains foreign government

officials and airline personnel to screen passengers before boarding. For example, INS posted an experienced immigration officer at the Pakistan airport for six months in 1993 to train and consult with government officials and airline employees. This step significantly reduced the number of mala fide arrivals in the United States from Pakistan. More recently, INS officers have been detailed to Amsterdam to monitor flights to the United States.

As a result, the number of mala fide arrivals at JFK and other international airports has decreased dramatically, particularly in the second half of Fiscal Year 1993, and INS is detaining and deporting a greater percentage of those arriving illegally. At JFK, the number of asylum seekers declined by 30 percent from FY 1992 (9,180) to FY 1993 (6,144). The decline has continued, with only 4,523 mala fides arriving at JFK during the first six months of FY 1994 (down 35 percent from FY 1993). In the second quarter of FY 1994, only 864 individuals requested asylum, which is the lowest number since 1991.

Those individuals who have arrived at JFK and sought to enter illegally are being placed in exclusion proceedings and given an immediate date for a hearing before an immigration judge. As a result, the "no-show" rate by non-detained aliens for their hearings has dropped, and immigration judges have issued in absentia exclusion orders for 89 percent of all aliens failing to appear. INS identified additional funds to detain more excludable aliens (10 percent more detainees at JFK) until their hearings and any appeals are completed. When an additional 300-bed detention facility opens at the end of June in Elizabeth, New Jersey, INS will be able to detain up to 40 percent of all aliens arriving illegally at JFK. (Currently, there are only 100 detention beds at JFK.) Aliens denied asylum are being deported promptly -- firm detention of the maximum number of mala fides at

JFK has resulted in the deportation of eight percent of the overall excludable aliens at JFK.

The numbers of mala fide aliens at Los Angeles International Airport (LAX) have been dropping since 1991, when 4,547 aliens requested asylum. Since February, 1991, all excludable aliens have been detained. In FY 1992, only 250 asylum seekers arrived at LAX; only 46 arrived in FY 1993. We expect JFK to experience a similar decline in the number of mala fide arrivals.

Comprehensive Asylum Reform

Our current asylum system represents the weakest link in the chain of challenges we face today. The system must be timely in accomplishing twin objectives: delivering protection for genuine refugees and denying the claims of those who are ineligible, lest delays become an invitation to misuse the system. Currently, neither of our objectives is being met as only one-third of asylum cases even reach the interview stage. The volume of asylum cases filed per year has increased from 56,000 in FY 1991 to over 144,000 in FY 1993. As of May 1, there were 150 asylum officers working on a backlog of 384,000 pending applications.

The asylum reform the Administration has proposed fulfills these twin needs. Our goals are to grant asylum to deserving applicants more expeditiously and identify and deter the filing of frivolous claims.

We have issued a proposed regulation to significantly streamline asylum procedures, providing a framework which can allow INS to stay current with incoming applications and focus our enforcement efforts on fraudulent applications. Both of these measures should reduce the incentives for asylum abuse and

protect the process for those who are legitimately seeking asylum. Critical to the success of these reforms is funding for an increase in personnel to process asylum applications in a timely manner. This will mean increases for INS asylum officers, the Executive Office for Immigration Review (EOIR), U.S. Attorneys and the Civil Division.

We are also moving against unscrupulous immigration counselors who provide abusive, boilerplate applications. INS is actively pursuing 14 large-scale asylum fraud cases, the majority of which are pending grand jury proceedings. In March, the INS Newark office completed a nine-month investigation which resulted in the arrest of two asylum fraud facilitators who were charging clients between \$700 and \$1,100 for employment authorization documents obtained by filing fraudulent asylum applications. We hope the significant press coverage of this and other cases will warn aliens not to be drawn into these schemes and will reduce the fraudulent filings. I have detailed above our steps to curb the incidence of asylum abuse and the related enforcement problems from asylum-seekers arriving at international airports, particularly in New York. These include our expanded efforts at overseas deterrence through international cooperation against criminal smuggling syndicates as well as training of government and airline personnel in detection of fraudulent travel documents.

In addition, we propose using \$64 million in Crime Control Funds to double the size of the asylum officer corps from 150 to 300 officers. INS has begun hiring new asylum officers and is prepared to begin their training in late summer, so that the new system can become operational on October 1 if funds have been appropriated. In addition, we plan to hire 50 additional immigration judges and about 50 more INS trial attorneys.

When our new procedures are fully in place, we expect to be able to reduce application processing times from the current 18-24 months to no more than six months. Bona fide asylum applicants will be approved faster; asylum abusers will be denied sooner, and those not otherwise in the United States legally will be deported. Achieving that goal will mean that only approved asylum applicants -- not pending applicants not yet proven to be eligible -- will be able to work in the United States. The work permit magnet of asylum will be eliminated, and fraudulent claims will drop significantly.

Service to the Public

Our approach to immigration is two-pronged -- facilitating legal immigration and curbing illegal immigration. We have explained our approaches to illegal immigration and would like to detail some of the efforts we have made on the legal immigration front.

Our proposal to encourage naturalization through public education and streamlined INS procedures is a response to the need to help bring newcomers into full participation in our society. The timing of this resource request is critical as 1994 is the first year the Legalization population begins to become eligible for naturalization. This population represents a large one-time increase in naturalization cases and requires special investments for INS to respond to the large anticipated jump in workload. It also offers a unique opportunity to target an identified population for this benefit. The resources requested will provide INS with sufficient personnel to adjudicate the increased number of applications for naturalization without which the backlogs could grow. Information services dealing specifically with naturalization topics will be expanded by the addition of "1-800" phone lines and additional personnel.

Building upon success of the legalization program and the critical role of the voluntary organizations, this initiative contains funding which will be used for cooperative agreements with community-based, ethnic group networks, and educational institutions to do public outreach, provide language and civics instruction, and assist in the preparation of naturalization applications.

This initiative also includes some streamlining procedures for naturalization applications processing, including alternative means of meeting eligibility requirements that demonstrate English literacy and knowledge of government and history, as well as revision of naturalization forms to make the entire process more user friendly. Most of the streamlining changes will be accomplished through administrative reforms.

The automation enhancements included in the FY 1995 budget request will further support INS service to the public. This will include expanding our automated system such as the CLAIMS system to all major district offices. This automated system allows for tracking applications, scheduling interviews, automated responses and decision correspondence, updating INS databases, and preparing statistical reports. It both supports prompt adjudication and notification of applicants, but also provides the management information to assess individual office and overall work performance.

Conclusion

I welcome this opportunity to present the actions this Administration has taken to address immigration problems. I am

pleased that the Committee is taking such great interest in the way that immigration, particularly illegal immigration, affects state and local government. We are working at the state and local level with the appropriate officials. I have presented our immigration initiatives, which can help the Service do its job better, which should lessen the burden on the states. The funding in the Crime Control Fund is critical to enhance our efforts to control illegal immigration. I appreciate any support you can provide in this regard.

I would be pleased to answer any questions you may have at this time.

Chairman BYRD. If there is no objection, and in as much as Senator Hollings is the chairman of the Appropriations subcommittee that has jurisdiction over this subject matter, I would like to yield my time on the first round to Senator Hollings.

Senator HOLLINGS. You are mighty kind, Mr. Chairman, and Senator Reid. I do not have those long questions, but right to the point.

Madam Commissioner, you give me heart because there is no doubt from your statement that you have been working since we had our last hearing in our Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Subcommittee.

With respect to the \$350 million that would go to seven States when we cannot even estimate the number of illegal aliens, as you say, who are in these jails. We know the criminals who are foreign born incarcerated in the State prisons, but we do not know whether we can identify them as illegal immigrants in those prisons.

Is this \$350 million a little bit premature when we cannot even identify the exact need? We are after each other up here now. I cannot get any money for strengthening immigration enforcement that I do not take from some other program. I think everybody understands that.

So, you have got to be able to justify your need rather than just say, well, you are doing a good job so let us throw money at your request. That is not going to happen.

I think we can get you your \$368 million but the \$350 million for the seven States, you can see on the House side they just included the Byrne Grant Program, doubled it from \$400 to \$800 million and said, look, Mr. Governor, if you want to use it for the expenses of illegal aliens, go ahead and do it.

With that in mind, what is your response? Is this request premature, trying to get the \$350 million over there?

Ms. MEISSNER. Well, we are working a very active agenda, and we are running on several parallel tracks, so the effort to put forth a proposal where reimbursements for States are concerned, incarceration costs, depends also on our being able to take a set of meas-

ures within our other criminal alien programs to be able to identify who the prisoners are, as you have pointed out.

We do know among the prisoners who are the foreign born, and we then need to determine from the foreign born who actually are illegal aliens and, therefore, subject to deportation.

We are working with each of the seven large States to develop a mechanism to do that matching, and we have worked out—

Senator HOLLINGS. I do not mean to be interruptive, but let us assume it has been done. When will that happen so we will know?

Ms. MEISSNER. We are doing that State by State as we speak. Now, a great deal of our ability to do that quickly depends on the funding package that we have given you for next year, which will automate the data bases that we use to check the State's data.

So, what we are doing at the present time is a much more labor-intensive process and takes more of our resources to complete. Next year, as we bring our data systems up into a more automated atmosphere, we would be able to be doing that much more efficiently.

Senator HOLLINGS. And can you give the committee some idea then, when will the automation be completed, and when will the State identification of illegal aliens in prisons otherwise be identified?

Ms. MEISSNER. I would have to give that to you State by State. It will be a gradual process, and it will not be a totally automated activity from the INS' standpoint until about 1 year from now.

Mr. COLLISON. I would say closer to 24 months.

Senator HOLLINGS. Closer to 24 months. You see, I am trying my best to get by next week and next month, and certainly the fiscal year. Now, I like that word gradual. I like to spend money gradually.

And if the process of the identification of those to receive the money is going to be gradual and not identified for 24 months, then you have solved my problem.

Ms. MEISSNER. Well, as I say, we have been trying to move an agenda that has many pressure points and many demands, and so we are putting forth as much of an activist approach as possible. But it is true that being efficient where the State criminal assistance grants are concerned does depend on capabilities in the Immigration Service, which we are still working on.

Senator HOLLINGS. Can you tell us a little more about the automation? When will that be completed, because I think that it is highly important to get this computerized.

Ms. MEISSNER. Well, we are talking about many different aspects of automation.

Senator HOLLINGS. This is in the \$368 million request.

Ms. MEISSNER. Exactly. The critical centerpiece of that \$368 million package—the critical centerpiece where automation is concerned—is the telecommunications infrastructure within the Immigration Service that allows us to link our data bases.

When that telecommunications infrastructure is put into place, which is an activity which we would be planning to be ongoing during the next fiscal year, then we will be bringing up more and more data base capability.

Ron Collison is here, who is our computer expert, and he can answer you in more specifically if you would like to have more specific information.

Senator HOLLINGS. Yes, please.

Mr. COLLISON. Senator, once the funding is made available, the key system in our places is a system called ENFORCE. That coupled with tying our data bases together has an 18-month development cycle. And once it is developed, in parallel we would be putting up the infrastructure to run it on—the microcomputers, the local area networks, the basic software.

The estimate would be that about 24 months from the funding availability we would have a substantial part of the system up and running, at which time we would be pulling information in from State and local systems, trying to identify where they have people incarcerated.

Senator HOLLINGS. All right. Aside from the identifications then, Commissioner Meissner, what about the cooperative agreement and arrangements you are doing with the States in the Southwest, or specifically that hold the line program down in El Paso?

Can you tell the committee is that working? Prevention seems to be far more important. If you have got to make choices between prevention and actually paying for the illegal aliens thereafter, I would try to put more of the money on prevention. Tell us about it.

Ms. MEISSNER. The prevention is working from our standpoint in El Paso, and it is beginning to work now in San Diego.

We have with the money for this fiscal year, fiscal year 1994, concentrated our border resources in those two areas, El Paso and San Diego, because they have in the past accounted for 65 percent of our apprehensions.

We would intend to, in the next fiscal year, broaden that prevention strategy along other places in the Southwest border. We would probably have to do a little more in San Diego, but there are then a number of other next tier locations where we believe next year's resources would need to be invested. So the effort to create prevention at the border is certainly a 2 to 3 year effort on our part, and it is one that involves, as you know, not only the Border Patrol agents but bringing in technology behind them along with fencing and more sensor equipment, radios, et cetera that allow them to be efficient.

The ENFORCE system that Mr. Collison referred to is operating right now in prototype in San Diego, for example, and it has only been there for a few weeks in prototype, but already we can see enormous productivity as a result of our agents being able to do the arrests and the apprehensions on a computer with a few strokes, rather than filling in all kinds of forms and paperwork.

So, this is an integrated, comprehensive strategy, and we are very committed to it. It is a multiyear program, but it is definitely showing results.

Senator HOLLINGS. Well, in your budget request you had five components, as I remember. We asked that you give the priority amongst the five, and you said they were all integrated and you couldn't give the priority at that time.

Are you still of the same mind, or can you prioritize in any way because we might—I am going to try to get it all, and I think we have been working with the staff on both sides because there is a general feel that this is an area that we can do far better with just a little bit of money, relatively speaking.

But are there portions of your \$200 million automation initiative less important than others, or have you given a priority to any of the components in your budget request?

Ms. MEISSNER. Well, Senator, let me tell you that I have been struggling mightily with this, as I know you have been, and I appreciate very much the spirit with which you are tackling what I know is a difficult set of choices.

I would very much like to be able to provide you with a priority list, and if it ultimately comes to that we, of course, will do that. But I must say that the prevention at the Southwest border is extremely important—it is our first order of priority.

On the other hand, there is a very important interior component to this package. The illegal immigration that we are experiencing in this country is not just a Southwest border phenomenon. It is very much a phenomenon that occurs at the Southwest border, but about one-half of the people who are illegally in the country came here through airports or came here with visas and overstayed their visas.

So, the way to deal with those who did not come across the Southwest border, which is about one-half, does have to be through workplace enforcement. It does have to be through integrated information sharing with the State Department—checking more effectively at our airports of entry—so that it is very much an integrated package which depends on the linking of a variety of responses.

I think what I would ask you is that I not give a priority ranking to border versus sanctions or asylum reform or the automation at this point, but that if it is necessary to decrease, that we do that in a balanced fashion so that the pieces still support each other and mutually reinforce each other.

Senator HOLLINGS. Are the penalties sufficient to deter illegal immigration in the new crime bill? Specifically, I know in my own State in the textile industry they advertise down in Guatemala for workers, and we had to deport them and send them back down.

Now, earlier the chairman brought up the fact that the State of California at one time was advertising to bring in illegal immigrants and said, we are not going to tell Ms. Meissner, we are not going to tell the Immigration Service about it, please come.

Of course, you can tell from the Governor's appearance here earlier today that that story is changed, and I think this business community has got to get a clear message that it does not pay to do this.

Is that the case with the crime bill and the provisions as you see it as our Commissioner? Is business really being deterred if you really sock them, give them a good sentence? You know, they are talking about two strikes and out. Give them one strike and they will quit.

Ms. MEISSNER. Well, I am gratified to hear the sentiment, first of all. We do have language in the crime bill in a number of areas that will help us.

I think we have sufficient authority where employer penalties are concerned. What we need is more enforcement capability. We need more investigators doing that work.

We need a more aggressive response to fraudulent documents. We need a capability to focus on heavily impacted industries and follow up on leads in a more targeted way than we have been able to do in the past, and those are resource questions.

Senator HOLLINGS. I have some other questions I will submit for the record. Thank you, Mr. Chairman.

Chairman BYRD. Senator Hollings, thank you, thank you very much. Senator Hollings has the primary jurisdiction over this area. He has good background to begin with on this subject matter, and it has been very enlightening to hear him ask questions. I hope they will be helpful to him as he proceeds to mark up his bill.

Senator Reid?

Senator REID. Thank you, Mr. Chairman. Ms. Meissner, as I indicated to the Governors this morning, I am on their side. I think they have been jerked around by the Federal Government, and I think that employer sanctions are not working and I think that the Federal Governments immigration policy in general is a failure.

And I say, with all due respect, that statements like you have made, and you have done it very honestly—"over one-half the illegal population initially entered the United States through a legal process but then overstayed their period of admission. Given the diverse nature of the American population, there is no effective means to locate and arrest these aliens on a wholesale basis."

I mean, it seems to me that we have admitted here that we have failed and we are just going to let them come and stay. Is that not what you said there?

Ms. MEISSNER. I am only pointing out the fact of the matter. I mean, we do give visas, and we give visas to foreign students and to visitors and to business persons, and we do that as judiciously and rigorously as possible. That is by and large the State Department's responsibility through the consulates, and they do the best they can.

The fact of the matter is that some people stay. For the numbers of visas that are given, for the numbers of visitors and other categories that come every year, in fact the percentages that stay are very modest, and some would argue low. We have an enormous amount of travel in and out of the country which is very important to us economically, culturally, and in a range of ways.

But it is true that some people stay, and I am simply trying to point out with that statement that the issue is a more complex one than walking across the Southwest border. It is both the Southwest border as well as the visa overstay issue.

Senator REID. But I guess my concern is, and I do not see it in your written statement where you said it but I heard you say it, words to the effect that you do not think that we need any overhauls of our immigration system, it is working just fine.

Ms. MEISSNER. No; I am not saying that.

Senator REID. Is that not what you said?

Ms. MEISSNER. Well, no. What we are saying is we believe the basic framework for illegal immigration which the Congress enacted in 1990, very recently, is sound. We believe that there is a serious problem of illegal immigration, and that that needs to be far more aggressively addressed, and we believe that we have an aggressive program with which we are beginning to do that.

We are not in any way arguing that it can be done overnight. We have presented a series of long-term, serious, integrated efforts to deal more effectively with managing the immigration system. But it is true, as you point out, we are not coming forth with a proposal at this time to change the rules for legal immigration.

Senator REID. Ms. Meissner, you know, to show how we are approaching this serious problem is indicated in my opinion on page 14 of your statement. You have awarded a \$90,000 grant to the National Criminal Justice Association to study State executive clemency authority.

We have a Justice Department consisting of hundreds and hundreds of lawyers. We have to farm this out to find out if we can work something out with the Governors of the States?

Ms. MEISSNER. We could do it in-house. It is basic.

Senator REID. See, I get the feeling that we are going to do everything tomorrow. The program that Senator Hollings asked about that you have asked for \$380 million, \$368, whatever it is, I mean if you gave them the money tomorrow they have indicated they cannot do anything about it for 2 years.

Ms. MEISSNER. I would have to disagree with that. We have done a great deal this fiscal year at very accelerated levels of activity. The program that I was talking with Senator Hollings about in terms of tracking aliens, reducing paperwork, automating processes that have for 20 years or forever been labor intensive processes is right now, in San Diego, functioning in prototype.

We do not intend to be careless about it. We do not intend to invest money in things that have not been tested. We do intend to do it properly.

But we are moving very aggressively, and we have actual things that we can demonstrate will be bought with this money.

Senator REID. You and I have talked before, and I know that the constraints that people who work within the executive branch have are significant, and it is very difficult for you to come forward and say that you need more help. You are given a budget. OMB deletes this and deletes that. You wind up with very little of what you originally asked for. Is it a fair statement to say that the Immigration and Naturalization Service personnel is tremendously understaffed?

Ms. MEISSNER. The Immigration and Naturalization Service faces enormous demands on its resources and a very, very dynamic and changing environment.

Of course, we have a great deal that we have to manage and respond to, but as far as resources are concerned, this \$368 million that we are asking for in the coming fiscal year is probably—if we were to get that money—that is probably as much as an agency of our size can realistically take in in a year. It represents somewhere between 15 to 20 percent of our resource base. You cannot grow too much more quickly than that and do it in a well-managed way.

Senator REID. Let me ask two final questions, Mr. Chairman. First of all—and I have Senator Feinstein's legislation here in front of me, and mine and others call for a border crossing fee to pay for more border control agents. Do you favor that?

Ms. MEISSNER. We have not taken a position on that issue yet, but we have it under active review not only within the Immigration Service but within the administration, and we will have something to say about that as soon as we finish looking at all the aspects of it.

In principle, since we have a border fee on airline passengers——
Senator REID. \$10, is it not it, something like that?

Ms. MEISSNER. I believe it is \$6.

Senator HOLLINGS. \$6.

Ms. MEISSNER. But of course, none of us realizes it, because it is on our airlines ticket, and the airlines gather it. They collect the money for it and rebate it to the Federal Government. So, in principle, the administration and the country is already collecting fees for certain kinds of entry.

Where the land borders are concerned, of course, there are some practical issues that have to do with collecting and so forth, but we are actively engaged in looking at this proposal, and we think it is a responsible proposal.

Senator REID. Senator Hollings is certainly one of the experts here not only in the appropriations process but legislation generally, but I would think if his subcommittee is like mine, if you give extra money to someone else under this environment, you have to take it from someone else within your jurisdiction.

So I would be interested to know—you need not tell me now, but this \$370 million is going to have to come from somebody else if INS gets it, and that is a problem we have, and that is why the border crossing fee to me is very attractive.

The last question, I personally feel, as I have indicated lots of times, that the employer sanctions, as Congressman Royball told me at the time, was doomed to failure, and I believe it is. I think that the Federal Government basically shirked its responsibility and passed it off to the poor business people to enforce a law that we should be enforcing. How does your agency and how do you personally feel about a counterfeit-proof identification, employer identification card?

Ms. MEISSNER. Well, the Immigration Service is doing everything that we can within our jurisdiction to improve the documents that we issue, and to decrease the numbers of documents that are allowed to be used by employers for verification purposes.

We have jurisdiction, of course, only until the point of citizenship. We are issuing documents and establishing regulations on what documents can be used. That jurisdiction only extends to noncitizens. We have improved our documents—the green card, the nonimmigrant card, the work card. We are continuing to do so.

We believe that we are doing some very good technology development where documents themselves and the security of the documents is concerned, so that we have been aggressive and will continue to be aggressive where our part of the equation is concerned.

So the broader issue of what happens with citizens, and what citizens carry, that is simply a broader issue than the Immigration Service.

Senator REID. You are avoiding the issue, because if there is someone that does not have proper identification and they are not legally within the State, country, and they are working some place, INS is the one that has to go out and round up these people, so certainly you do have some interest in employer identification cards.

Ms. MEISSNER. That is exactly correct. I am pointing out that what we are doing in actual fact with the documents that we issue is, I believe, helping to push the question forward.

Senator REID. But do you think we should have an employer identification card, a card—

Ms. MEISSNER. I think we need to have reliable means for employers to verify who is coming before them to work.

Senator REID. Why is that a hard question to answer? Do you think it is a good idea or not?

Ms. MEISSNER. I do not know if it is a good idea. What I do know is that employers have to have a reliable verification mechanism, and that could take the form of a card, it could take the form of a telephone verification system—there are a variety of ways that that reliability can be provided to employers.

I do believe that as a country we have to do better in giving employers those forms of verification, but I do not have a specific suggestion to make to you on how that should be accomplished at this moment.

Senator REID. Thank you, Mr. Chairman.

Chairman BYRD. Thank you, Senator Reid. Senator Hollings, I will be glad to yield to you again at the beginning of this round.

Senator HOLLINGS. Mr. Chairman, let me clear up a couple of things. With respect to the money to be expended, the Senator from Nevada, I think they got the two funds or amounts confused, namely the \$368 million enhancement on the \$1.8 billion budget that they have, if granted by this Congress for the 1995 fiscal year, they expect to spend all of it. It is the \$350 million that we were talking about to the States themselves, because it takes a couple of years to identify them and everything else of that kind.

Senator REID. I understand that, thank you.

Senator HOLLINGS. Now, with respect to those fees, we put an inspection user fee in the 1986 appropriations act. We put an examination fee in the 1989 appropriations act, a pilot border crossing fee for a dedicated commuter lane—I might ask about that, how that is working up there in Blaine, WA—and a breached bond fee, so with all of the fees that have been put into our bill over the past few years, we have really increased the revenues from \$575 million in 1986 to \$1.7 billion this fiscal year. So, I have no reluctance, in other words, to try to put in a border fee which I think my distinguished colleague favors.

But Madam Commissioner, tell us about the dedicated commuter lane experiment that we have up there on the northern border. Is that working, coming in from Canada?

Ms. MEISSNER. It works extremely well, and we are very committed to and in favor of that form, programs like that to deal with border traffic.

We would like to be able to develop some commuter lanes on the southern land border. As you know, we are prohibited by legislation from doing that on the southern land border, but it has been successful on the northern land border, because what happens, of course, is that your reliable traffic is able to be facilitated, and you can then use your resources much more effectively to hone in on the traffic that could include abusers. So we favor that.

Senator HOLLINGS. Madam Commissioner, I tend to agree with the Senator from Nevada with respect to an identification card, probably a different view about the employers.

The idea was that we had put the enforcement burden on the employers. That is like delivering lettuce by way of a rabbit, I can tell you that right now. That is why we have not had any enforcement, and that is why we have got the difficulties that we all are trying to address right this minute.

I would like to get that card. We are going to be marking up our bill right after the Fourth of July recess because we hope the House will pass it over, and I could write you a letter officially, but tell us by that time whether you favor a card or do not favor a card. What is the administration's stand on it?

Ms. MEISSNER. The administration does not have a position on it at the present time.

Senator HOLLINGS. Please get it, even if it is neutral.

Ms. MEISSNER. I understand.

Senator HOLLINGS. I understand a neutral position. They have got the neutral position in various countries. I hope they do not have it on this one.

Thank you. Thank you, Mr. Chairman.

Chairman BYRD. Thank you, Senator Hollings.

Madam Commissioner, as I remember some of the testimony that I have read, the immigration judges are very careful about making decisions with respect to overstays and various other questions involving illegal immigrants, and unless they feel that the party has had adequate notice, notification to appear on a certain date and a certain place, they are reluctant to render a decision to deport in absentia.

It seemed to me, as I read about these situations, that the cards were stacked in favor of the illegal immigrant, the hesitancy to act on the part of the immigration judges, and it took so many days and weeks to notify the party what action is being taken. It seems to me that some actions could be taken to ensure that that notification gets to the party on time.

Why can the party not be notified at the very beginning, when he comes into the country, we are going to be having a hearing on your case, you are applying for asylum, or whatever it is, and it is going to be at a certain time in a certain place, and if you are not there, we are going to render a decision in absentia, so the ball is in your court?

What is being done to ensure that the notification procedure will work and is promptly carried out so that actions can be taken on these matters more expeditiously?

Ms. MEISSNER. Well, you are opening a very large subject, as, of course, you know. We are, after all, a due process-based system, and aliens have been beneficiaries of that to some extent. We have a series of measures underway to deal with the deportation and removal process more efficiently.

Chairman BYRD. Incidentally, I do not think that is the alien's fault. It is ours. He has due process if he is notified in a timely fashion. It seems to me that could be done.

Ms. MEISSNER. Well, that is true.

I think the most important thing we should point to where that issue is concerned is the asylum and the reform of the asylum process for which we are presently finishing up a regulation. As of October 1, after an asylum interview, if a person does not receive asylum, we will be referring those cases immediately to immigration judges with exactly what you say.

As we finish the interview, we will be giving them their notice of referral to a hearing with a hearing date and place on it. We will be personally handing that to the person interviewed so that there is not this problem with the mail and addresses and all of the issues that surround that. Then, if the person does not appear for that hearing, the person will receive a deportation order in absentia.

So where asylum is concerned, it has been one of the areas of deepest concern in terms of deportation and removal. I think that we have a good system that will be coming into place which will address that.

There are other things which are involved in the criminal alien arena to speed up deportation. We have in the crime bill, for instance, a proposal for judicial deportation under particular circumstances. We have a proposal for waiving, or we will be waiving the hearing in cases of certain aggravated felons who have no relief available and be issuing orders of removal at the district director level.

In other words, there are a variety of administration steps that can be taken, but this is an area that is difficult, and there are additional reforms that need to be proposed, and we will be proposing them.

Chairman BYRD. Do you believe that the evidence may indicate that in some States illegal immigration is decried on the one hand and encouraged on the other?

As was pointed out this morning, in the State of California, illegal immigration is decried, and I do not find any fault with that, but the Federal Government is blamed with burdening the State with various costs through mandates while at the same time the California State Department of Health Services was handing out literature to come one, come all, come in, the water's warm, it's fine—even though you may not be in the United States, that does not bar you, or if you have applied for amnesty, that does not bar you, come on in, and by the way, we will not inform the Immigration and Naturalization Service that you have made an application.

Now, it seems to me that that is an open invitation. If I were Governor of a State, I think I would know about my State department of health services, because those illegal immigrants are invited in by that kind of literature.

If a child is born, there is a citizen. There is a new U.S. citizen from now on. Are you surprised to hear that such literature was being handed out in English and in Spanish?

Ms. MEISSNER. I was not aware of the literature you refer to.

Chairman BYRD. So apparently we are encouraging, on the one hand, illegal immigration, and on the other hand, decrying it. Also in the hearings the question has arisen as to whether or not a person may be queried as to his alienage status. It is said that we cannot ask questions of that nature.

Now, why is that? Where was that bar put down? Was it put down by a State court, or by the Federal court, or by a State law, or by a Federal law? Why can these applicants not be asked what their status is, or can they? If they cannot, what is the genesis of the deterrent?

Ms. MEISSNER. I am struggling to sort out—you mean in the process of education, for instance, or emergency health care?

Chairman BYRD. In the process of their making application for emergency health care, or for any cash payments of any kind.

Ms. MEISSNER. It goes program by program. There are certain Federal programs—food stamps, aid to families with dependent children, for instance—where alienage is queried and where States that administer those programs are required to verify alienage with the Federal Government, and they do that by making a request for information from the Immigration Service which we then respond to.

But there are other areas of service, however, and specifically that would be education and in some cases emergency health care. But in education specifically there is a Supreme Court decision that says that a school cannot deny education on the basis of legal status.

Chairman BYRD. You mentioned medical services. Is that true in the case of emergency medical services, such questions could not be asked?

Ms. MEISSNER. In the case of emergency medical services, I would have to check my charts on this because it all goes program by program, but in most cases, where emergency health care is concerned, people are not asked about their alienage. That is correct.

Chairman BYRD. Well, you say they are not asked. Is there any reason why they are not asked?

Ms. MEISSNER. That is a Federal requirement, I believe.

Chairman BYRD. A Federal requirement that they not be asked?

Ms. MEISSNER. I need to check exactly how that comes about, but obviously the reason for it is that if people are in dire need—if people have suffered a wound on the job, or are in dire need of health care—simply as a matter of basic humanity, health workers give the health care. But for nonemergency services, alienage is a factor.

Chairman BYRD. Well, of course, no one in his right mind would disagree with you that that is a humanitarian issue, and I do not put the question in that context, but what harm is it if somebody is asked, a relative or somebody, about the place of birth and so on?

What I am trying to get at, is there any court ruling that this cannot be asked, or is there a law that prohibits the questions, and

I assume you are dealing with—as you have indicated very clearly, you are dealing with emergency medical services.

Ms. MEISSNER. Exactly.

Chairman BYRD. What about the situations which are not emergencies?

Ms. MEISSNER. I am sorry, I just do not know what the genesis of it is. We can get back to you on that.

[The information follows:]

[CLERK'S NOTE.—The information is being retained in the committee files.]

Chairman BYRD. Very well. My time is up. Let me go back to—Senator Hollings, do you have any further questions?

Senator HOLLINGS. I want to yield, I am sure, to Senator Feinstein, Mr. Chairman, but I understand the decision in the *Plyler* case, that there is still no reason not to ask a question on education. In other words, the court said you have got to—

Ms. MEISSNER. Provide the service.

Senator HOLLINGS. Provide the services, but you can still ask the questions. You can tell from the answer whether they are legal or illegal.

Ms. MEISSNER. I suppose you could, but I think there definitely are jurisdictions that do ask, and they ask for purposes of reimbursement, for instance, across school boundary lines, et cetera.

Senator HOLLINGS. That is it.

Chairman BYRD. Senator Feinstein.

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

Mr. Chairman, in most instances I think the Governor of California would not wish me to speak for him, but on this, I believe I can categorically state that it is not the policy of the State of California to attract illegal immigrants for the purposes of medical care, giving birth, or benefits. I have no doubt about that, either in the position of the Governor or the majority of the legislature at this time.

I want to really commend this Department, because it is tough duty. They are dammed if they do, and they are dammed if they do not, and there probably is nothing harder in the world than the job that Immigration and Naturalization Service does. I have had an opportunity to work with them for well over 1 year.

Let me give you my personal experience. I went to the border twice last July, once with the Attorney General. Let me tell you what I saw. I saw 3,000 people coming across. I saw one Border Patrol agent for a 3-mile strip of border. I saw people by the hundreds lined up waiting for the Border Patrol agent to go to the end of his beat, and then rush across. There is a narrow expanse between Mexico and California, San Diego. They were lost. They disappear easily.

After the appropriation came in, I went back when the first 40 additional agents funded reached the border. The first time I went, there was one night scope. This time there was more equipment. There was lighting. There were 14 miles of fence that had been put in, with only two gaps. There was esprit de corps, a new morale in the Border Patrol. They told me that on the basis of what had been done so far, their effectiveness has increased from 50 percent to 60 percent.

I know, based on what I have seen with my own two eyes, we can enforce our border. I really believe—and we have tangled as much as we have tangoed. I really believe they are trying to do their level best.

I can tell you one thing about California. There are 15,000 illegal immigrants serving felony time in State prison. I believe that. I would take that by oath. I would have no problem voting on it. I believe it is true, based on everything I have seen. I believe it is true that they are doing their level best to do a good job.

I am told this. Federal law requires determination of immigration status for many Federal programs—AFDC, SSI, food stamps. Some States have constitutional and statutory prohibitions against determining immigration status—California is statutory, New York has a constitutional provision. States that have attempted to determine immigration status have been overturned by the courts.

My bill, Mr. Chairman, which I have just given you a copy of, would change all of that, would give the States the authority clearly to determine that status and end the ambiguity once and for all.

I would like to ask Commissioner Meissner this. I am very concerned that you are not going to get the resources necessary to do the job—let me just put it up front and center—and I am very bothered by it, because I think the people are going to be very upset if that happens.

Let me take the crime bill and what I understand is in the crime bill. I understand the conferees may—and I stress may, because this is just rumor—be considering \$400 million for the INS and \$1.9 billion for criminal alien reimbursement. This would represent \$300 million per year for State's cost of incarcerating illegal aliens, not the \$350 million that the President has proposed, and it would mean less than \$100 million per year for INS initiatives.

I really think that, Commissioner, you have got to make the case for more funding. I can make the case, because I have seen with my own two eyes that we can, in fact, control our borders if you are allowed to reorganize, equip, train, implement, and hire sufficient personnel, and I would like to ask you, to the degree you can be specific, where, if you got this money, it would go, and how it would be used.

Ms. MEISSNER. Are we talking now about—

Senator FEINSTEIN. The crime bill moneys.

Ms. MEISSNER. Right, but are we talking about \$100 million, or the \$368 million that we are asking for?

Senator FEINSTEIN. Well, you can say \$368 million, but I understand the \$68 million part of it would probably have to come from a border crossing fee, because there is only \$300 million in the crime bill, and Senator Hollings controls the subcommittee. I do not know whether he can find the money.

Senator HOLLINGS. I do not control anything.

Senator FEINSTEIN. I hear you control it all. I am told, just see the man.

Senator HOLLINGS. If that is all it needs, you have got it.

Ms. MEISSNER. My answer to the question is that \$100 million a year is not enough for us to pursue the aggressive agenda that we have put forward. We have put forward an agenda, as you know, of a very carefully thought through but aggressive growth

over the next several years in the key places in the system that need to be strengthened—

Senator FEINSTEIN. Elaborate on that, please.

Ms. MEISSNER [continuing]. And those are the five that we have named. Those are the Southwest border, reforming the political asylum system, strengthening our ability to enforce employer sanctions, working on criminal alien issues, and naturalizing people that are eligible for citizenship.

As part of all of that, the way in which those initiatives have been put together all bring with them the structure of it, a major modernization of the Immigration Service as an organization. They are developed in a way that creates the mix of people, technology, and automation that we need to be effectively managing the immigration system.

Now, the Attorney General has been making that case. Obviously, I have been making that case. Yesterday, Leon Panetta, the Director of OMB, with me made that case. We are working with the crime control committee conferees minute by minute on a daily basis. We are here today making that case.

We believe that we have put forward a program of growth which is well thought out and which will lead to long-term durable solutions, but we think that it is a program that has to hang together, has to be done in concert. We do not think you can just do the border piece, nor do we think you can just do the criminal alien piece, nor do we think we can just reimburse States for the incarceration cost piece, as much as we want to be responsive to the States and what we believe are legitimate concerns and assertions they are making.

But you have got to have all operating together, and the critical thing, of course, from our standpoint, is that we get some real prevention, that we begin to curb the illegal immigration and the incentives for it in a serious way—and that is a border issue, it is an employer issue, it is an airport issue, it is a linked data base issue, it is a comprehensive proposal—and that is what we have made.

Senator FEINSTEIN. Let me say what I believe here. Unless we can put together a bipartisan group, we will not get any bill through, because ideology enters into all of this rather than the practical considerations.

I would hope that INS, Justice, and the White House would take a position on some of these bills that are pending. I cannot get my bill through without some help from you, and we have got a funding mechanism for it. It would not cost—you could do what you need to do. I am absolutely convinced the only way to give you the authority to do what you need to do is legislatively, so that it is there and you can count on it being there.

Ms. MEISSNER. I understand what you are saying, and we will be taking a position on those bills.

Senator FEINSTEIN. Good. Thank you, Mr. Chairman.

Chairman BYRD. Thank you, Senator.

Commissioner, inasmuch as about one-half of the illegal aliens are individuals who have overstayed their visas, and apparently we have difficulty locating these people, would it help to require these

individuals to keep INS aware of their whereabouts while here on a student visa or on an employment visa?

Ms. MEISSNER. Theoretically, it would help. As a practical matter, until we are more automated, we would not be able to handle the information. The best way of dealing with that overstay problem is to deal with the employers who employ people improperly. As I say, over the longer term, 2 or 3 years from now, if we are able to build the data base capability that we envision, we would be able to keep track in other ways.

Chairman BYRD. It is my understanding that the State of New York had chosen not to participate in the SAVE Program. The State of New ranks second—second in the number of illegal aliens. Do you know why New York did not choose to participate?

Ms. MEISSNER. Mr. Collison will check that. There may be a program that they do not participate in, but I believe that New York does participate in our SAVE Program. Give us a minute, or let us get back to you on that. That does not sound right.

[Pause.]

Ms. MEISSNER. We will have to get back to you later. I am sure that New York participates in some of these programs.

Chairman BYRD. All right.

Ms. MEISSNER. I am looking at our chart on State participation, and New York participates in AFDC, it participates in Medicaid, and it does not participate in unemployment compensation, and it does in education, particular education programs.

Now, if there is some disagreement on this we can sit down with the staff and go through it in more detail. It does appear as though there is in the Food Stamp Program a waiver, and I do not know the basis for that.

Chairman BYRD. Reference has been made several times to Senate bill No. 175, which was enacted in 1988, in the California legislative service regular session.

I call attention to one paragraph, paragraph (i) in the legislation:

Current State law requires all aliens to certify that they belong to one of four alien statuses. This certification is forwarded to the Immigration and Naturalization Service for verification.

Many undocumented aliens who would qualify for Medi-Cal emergency services upon implementation of OBRA would be reluctant to apply for such services for fear that the forwarding of their statutorily mandated certification to the Immigration and Naturalization Service would result in their deportation.

In order to maximize aliens' access to emergency medical care and the Federal financial participation for such care, it is necessary to repeal such law.

So here is the California Legislature in 1988 saying that in order to maximize Federal participation in this program for care, and in order to maximize aliens' access to emergency medical care, it is necessary to repeal such law, meaning the "current State law," at that time, current State law that required all aliens to certify that they belong to one of four alien statuses.

I will include without objection the entire legislative counsel's digest on this State law and the law itself. It will be in the record without objection.

[The information follows:]

[CLERK'S NOTE.—The information is being retained in the committee files.]

Chairman BYRD. What role will the expansion of the INS automated fingerprint identification system, IAFIS, have on detecting and preventing illegal immigration?

Ms. MEISSNER. The fingerprint system that we are working with at the present time will be very helpful to us on a number of fronts. We are testing it first in San Diego beginning later this year, and as we test it there, we will be using it to determine whether or not we are arresting somebody who is a criminal that already has a record that has been in our files, put there by hand.

So that first and foremost it will help us to learn whether we are dealing with a first-time crosser, or whether we are dealing with a more serious case. If we are dealing with a more serious case, obviously we would be seeking prosecution or other steps, and if we knew that that person is a smuggler, that helps us to be much more vigorous in our law enforcement.

The fingerprint system has many other uses for us as we bring it up. Most importantly, it lets us know whether the person that we are dealing with is actually who he or she says that they are.

So when all is said, ultimately the fingerprint system for us is the best technological response that will come in the long term. In the medium term, it is off the shelf. It is available. We simply need to be able to buy it at this point and load into our data bases the fingerprints that we keep by hand, but it will make us be much more effective. Where law enforcement is concerned, it will help us respond to local law enforcement requests more quickly, a range of those kinds of uses.

Chairman BYRD. you have to have the fingerprints of the person applying.

Ms. MEISSNER. That is true, but this is a system where a person just puts their index finger on the machine and you do not go through all of the inking business. So it is very user friendly, shall we say.

Chairman BYRD. Is the identification instantaneous, or almost so?

Ms. MEISSNER. It is very rapid. I will let Mr. Collison give you the details.

Mr. COLLISON. In a few minutes, on average.

Chairman BYRD. Could you explain the difference between the fingerprint checks that your proposed automated system will perform and the full automated fingerprint checks that are currently being conducted by the FBI?

Ms. MEISSNER. Mr. Collison has been working with the FBI on a regular basis on this, so I will ask him to address that.

Mr. COLLISON. Mr. Chairman, they are mutually exclusive. We would plan to continue relying on the FBI to do the checks that they now do for benefit applications and against their data base for criminal checks. Our data base that we would propose to build or would plan to build would be in addition and not duplicative of what they have, and would contain information primarily on aliens—aliens of interest to INS and normally not of interest to other State, local, or Federal agencies.

Chairman BYRD. A lot of effort and a lot of dollars are going into developing a system in which all fingerprint functions are consolidated in the FBI. Will the INS be linked to the FBI IAFIS system

at some point in the future? Will they complement one another? What will the relationship be?

Mr. COLLISON. Mr. Chairman, I think they will complement each other. We will design and build our system, if the funding is approved, to be compatible with the FBI's plans for their IAFIS. Because they have a different problem they are trying to solve, in the volume of records that we deal with presently today and the way the system is designed and can be delivered technically from their end, they could not handle the volume of transactions, the fingerprint checks, that we would push at them. But it will be designed so we can do it on the high priority ones, and eventually all that need to go against their data base.

Chairman BYRD. Senator Feinstein, my time is up. Would you like to ask further questions?

Senator FEINSTEIN. No.

Chairman BYRD. Thank you very much.

Senator FEINSTEIN. Thank you.

Chairman BYRD. On April 26, in testimony before our Subcommittee on Commerce, Justice, State, and the Judiciary, you indicated that the INS has information whether or not criminals incarcerated in State prisons are foreign born but not on whether they are illegal aliens. Has that ability changed?

Ms. MEISSNER. We cannot do the matching yet on an automated basis, but we are, through working with the individual States, developing programs whereby our people are located in the State prisons where the foreign born are incarcerated. And in turn, the States are agreeing to consolidate their foreign-born prisoners in a few locations so that we can efficiently work there.

Our people then go through all of those records with corrections officials, interview when need be to determine who is illegal, and that really constitutes the front end of what we call the institutional hearing program, because that information that is then developed on who is illegal is the basis for the deportation hearing in the State prison.

Now, that is a much more efficient process than has been the case before. Nonetheless, it is, as I say, a labor-intensive process and it can be done on an automated basis in the future as we bring up our automation plans.

Chairman BYRD. Are you currently conducting a review of State foreign-born inmate populations?

Ms. MEISSNER. Yes, we are.

Chairman BYRD. When do you think that review will be completed?

Ms. MEISSNER. That is part of the Urban Institute Research which is being completed at the present time. And the report on that, the target date for releasing that information is the middle of July at this point. In other words, that will give us an assessment in the large States of what the illegal incarcerated population actually is and, therefore, a basis for dealing with cost sharing.

Chairman BYRD. Do you have any preliminary findings? Could you bring us up to date on them if you do have?

Ms. MEISSNER. I believe that OMB does have some preliminary findings. I do not. I am not sure about that. Since the middle of

July is drawing close, there may be some preliminary information, but I do not have it.

Chairman BYRD. Could you supply the committee with any of those preliminary findings?

Ms. MEISSNER. If it is available, I will try. I would have to follow up on that.

Chairman BYRD. Commentaries on the crime bill are contending there are negotiations on authorizations of programs and initiatives that this committee will fund through the violent crime trust fund. Initial discussions included a substantial amount, \$1.9 billion for State criminal alien incarceration reimbursement, but relatively little for INS's efforts to address the problem head on. What are your thoughts on the levels of authorization being discussed by the conferees?

Ms. MEISSNER. Well, we are working closely with the conferees. We appreciate the demands that they have upon them to fund programs. The immigration piece of the crime trust fund is about \$1.8 billion, our going in request, so that that is considerably greater than the amounts that are being discussed. But as I say, we continue to work with the conferees and we hope that we can come closer to what it is that the immigration initiatives would require.

I would point out that, as I said earlier, the proposal on the criminal justice assistance grants was predicated on the notion that we would be getting a much more effective control regime at the front end. In other words, the premise upon which those grants was given, was proposed, was based on the notion that we would strengthen the enforcement system in an effort to make it less necessary to be reimbursing for incarceration costs.

So it is extremely important from a policy and ultimately from a spending standpoint to put the rigor into the system that we are proposing in these immigration initiatives in order to lessen the need for reimbursement costs.

Chairman BYRD. You understand that the conferees are discussing authorization and not appropriation of funds? The conferees are discussing authorization, not appropriation.

Ms. MEISSNER. I do understand that.

Chairman BYRD. It was my intention, and still is, that the appropriation of funds from this trust fund that I helped to create will be controlled by this committee and the Appropriations Committee in the House.

Ms. MEISSNER. No; I fully understand that. When we talk about the \$1.8 billion which would be the immigration initiative 6-year level on this, I am sure you appreciate that we have to work on that front, as well. But we are very cognizant of the Appropriation Committee's role in this regard.

Chairman BYRD. I understand that a critical component of your reform proposal was to conduct an initial review of asylum claims within 180 days, during which time the INS will not issue a work authorization document to the applicant. Is it your opinion that most fraudulent asylum claims are made by individuals seeking work authorization, and that this change alone will result in substantially fewer asylum cases?

Ms. MEISSNER. We do believe that a good deal of the abuse is based on the availability of the work document, and yes, withhold-

ing that document for a reasonable period has been very important to us in bringing some rigor into the system.

We also believe, however, that it is extremely important for us to interview and decide these cases in a timely fashion because if there is certainty at the front end of a review of the case within a few months, the incentive to use the system simply to obtain a work document should begin to fall away.

So the regulation has a number of elements in it which should overcome the problems that we presently are experiencing.

Chairman BYRD. The Executive Office for Immigration Review has managed to avoid accumulating a backlog of asylum cases. If INS is successful in meeting its 180 day target, and applicants do not receive work authorization, will it be possible for them to use reviews and appeals to drag the process out long enough to get the work authorization?

Ms. MEISSNER. Well, this, of course, is something that we have worked very hard on in the asylum reform because it does no good to simply shift a backlog from one place to another, and it is not our intention to do that. That is why the proposal that we have made is a proposal not only for asylum officer resources but it also includes substantial immigration judge resources. We double the asylum corps in our proposal, and we add immigration judge resources at a level of one-third greater.

But in addition to that, we provide for a deportation order in absentia to be issued by the judge so that the regulation and the procedure is one that thwarts the opportunity for stretching things out in a way that is presently possible.

Chairman BYRD. What is the administration's position on proposals that would limit asylum claims to the first 30 or 60 days after an individual arrived in the United States unless there was a dramatic change in circumstances abroad?

Ms. MEISSNER. We considered that approach very carefully, and the reason we ultimately decided not to go with that approach is because we were very concerned that we would spend precious time and effort determining whether the 30-day period had been met and responding to information and the need to check on the applicant as to whether the applicant had filed within the 30- to 60-day period rather than getting to the issue at hand—which is whether or not the person is eligible for asylum.

So the time limits at the front end, while it looks attractive at first look, in fact, puts another step and another decision onto the table that we would have to make, and we would rather simply go to the core decision which is whether or not the person is a refugee.

Chairman BYRD. Why should not a person be required to make a claim of asylum immediately upon entering the United States, with the aforementioned caveat?

Ms. MEISSNER. First off, people who truly are refugees—if they have gotten here with a 6-month visa for instance—true refugees generally would prefer for the crisis to pass and be able to go home. So that often the most meritorious cases are the ones that are least likely to file quickly because not only do they want the situation to change but they have often left family members behind, others who would be jeopardized by their coming forward. So they, for

very legitimate reasons, often will wait until the last possible moment actually to file.

But beyond that, as I say, from a purely administrative standpoint, if we were in the position of enforcing a 30-day limit it would simply take our time and effort when we could be deciding the case.

Chairman BYRD. Why should they not be required to make a claim of asylum immediately upon entering the United States? You could still take 60 days. Why should they not be required to make a claim?

Ms. MEISSNER. It is a way that one could proceed. As I say, it was a question of choices and what we felt would be the best use of our time and effort. We simply felt that there would always be disputes concerning whether we believed the person had filed within a timely fashion or not. And as I said earlier, we felt we should get to the heart of the matter.

Chairman BYRD. I am not talking about filing in a timely fashion. I am saying why should they not be required to make a claim of asylum immediately on entering the United States?

Ms. MEISSNER. Because the problem is that if somebody came here—for instance, let us take the case of Rwanda. Somebody would have come here 6 months ago as a student from Rwanda. There is no reason to believe that anything terrible is going on. Five months later, all of this terrible stuff breaks out, and so somebody files for asylum. We would then be in the position of saying you did not file within the first 30 days of your coming to the United States, therefore, you are ineligible.

The asylum system is supposed to respond to people in refugee circumstances, and those circumstances do not always present themselves in neat ways.

Chairman BYRD. We have got to consider not only the person who is seeking asylum, but we have also got to consider our own country and the people who are already here and what is in their interests. It seems to me that the person could file a notice he is seeking asylum, except in a situation where something happens abroad, 10 days or 2 weeks after he gets here, and consideration could be given with respect to the changed circumstances.

But I cannot understand the harm that would be done by having that person file his intention to apply at the beginning and let him know that we want to know his address. Where will you be found? We expect to find you at your place. There will be a hearing in 60 days, and if you do not show up for that hearing you will be in danger of having a deportation decision in absentia. We should put the onus on the person who is asking for asylum.

Ms. MEISSNER. With the exception of the filing within 30 days, the other steps you have outlined are very much part of the procedure that we have proposed. People are responsible for being where they are supposed to be, they are responsible for showing up for their interview, and they are responsible for being at their hearing. And if they are not, they will have deportation in absentia.

Chairman BYRD. In some cases, aliens who show up at our airports and have asked for asylum have traveled through one or two other countries before arriving in the United States. For example, we know that some of those seeking asylum have changed planes

in Germany, France, or England prior to landing in this country. In such situations, do you agree that the goal is simply to get to the United States and not to seek asylum at the first available opportunity? And if so, do you support changes in the law that would automatically deny asylum to someone who has passed through one of these other democracies?

Ms. MEISSNER. There is no question that people do choose destination. The difficulty with legislating on that point is that countries have not at this point been willing to make that kind of an agreement with the United States, nor have we been willing to make that kind of agreement with other countries. Canada, for instance, has asked us to enter into an agreement with them that would put the shoe on the other foot.

In other words, people coming through the United States to Canada to apply for asylum, which is a substantial part of the Canadian caseload. The Canadians have asked us to take on that caseload because people came through this country first. And we have, I think understandably for good reason, refused to do so.

So it would need to be reciprocal. And frankly, we are not in the position to handle a bigger caseload than we presently have. So we have not pursued that in the other direction.

Chairman BYRD. Well, this would not appear to require the approval of the other country. What I am suggesting is that—

Ms. MEISSNER. But in practice it actually would, because one would have to return the person to that country for them to pursue their claim.

Chairman BYRD. Well, what is wrong with that?

Ms. MEISSNER. The country can refuse to have the person returned because he is not a national of their country.

Chairman BYRD. What I am saying is do you support changes in the law that would automatically deny asylum to someone who has passed through one of these other democracies? It would not depend upon an agreement with them. If he has passed up his opportunity to seek asylum in one of those democracies, why not send him back? He had the intention at the very beginning to show up at U.S. airports and ask for asylum in this country. He passed through two or three other countries on the way.

Ms. MEISSNER. Well, that is something we could consider.

Chairman BYRD. Would you explain the preinspection program that I understand the INS is testing in a limited number of foreign imports? Are there particular countries that have not been receptive to this idea, and are there ways to overcome their objections? I understand that you are carrying on this preinspection program in four—is it four locations?

Ms. MEISSNER. I believe so. Mr. Puleo has negotiated these agreements and is very familiar with them, so I am going to ask him to respond to you.

Chairman BYRD. What are those four locations and what progress is being made in securing additional locations?

Mr. PULEO. Mr. Chairman, we have been in Canada since the early 1950's on a preclearance process, and numerous locations throughout Canada. We also have sites in Aruba and Bermuda.

Chairman BYRD. That second one is?

Mr. PULEO. Aruba—it is a small island north of Venezuela—and Bermuda and Shannon, Ireland. We recently considered negotiations to expand the Shannon location to Dublin. We have been in protracted negotiations with the United Kingdom and have had difficulty completing that process to expand preinspection to Heathrow and Gatwick Airports.

We are, however, in consultation with the Dutch Government and the Belgian Government to place preinspection in Brussels and Amsterdam. Both of those governments have been very receptive about including preinspection in their new airports.

Chairman BYRD. Did you say they are or are not very receptive?

Mr. PULEO. They are. They are being receptive.

Chairman BYRD. I understand that a Justice Department inspector general's report concluded that this is not a cost-effective way to conduct inspections. Do you agree or disagree, and why?

Mr. PULEO. It is more costly to have inspectors overseas. But we concluded that because we need less inspectors to do the same amount of work, simply because the people trickle into the airport rather than arrive all on one airplane, that it can be more cost effective.

We did also, however, agree that we could do the job smarter, not only overseas but here domestically in the United States, and we are in the process of, if I may say, reinventing the inspections process here in the United States. Then we will carry that process overseas.

The process that we hope to put in, the preinspection process we hope to put in both in Brussels and Amsterdam, will be this new inspections procedure which will hopefully take more automation in the inspections process than we currently use.

Chairman BYRD. Currently, individuals can evade the INS for years in an illegal status, and then when discovered can count the time they spent in hiding and evading the INS toward their 7 year legal status requirement. What would need to be done? Would a change in the law be required so that from the moment that an individual became illegal or entered illegal status, no time from that point could be counted toward obtaining the 7-year benchmark for legal status?

Ms. MEISSNER. I think that would require a change in the statute.

Chairman BYRD. How would you view that proposal?

Ms. MEISSNER. Well, as I said earlier, we have a comprehensive review of the entire deportation machinery underway—both the law and the ways in which we administer the law. And all proposals are on the table at the present time. So we would be open to looking at a variety of changes.

Chairman BYRD. Including this proposal?

Ms. MEISSNER. This proposal is certainly worth debating.

Chairman BYRD. Will it be included?

Ms. MEISSNER. Yes, sir.

Chairman BYRD. I am an original cosponsor of Senate bill 1333, the administration's proposal to institute expedited exclusion and enhance the penalties for alien smuggling introduced last year by Senator Kennedy. Does the administration still support this meas-

ure, or are there other ideas that have come to light since last year that you think can address this problem?

Ms. MEISSNER. We have broken up that original proposal into pieces because it was not able to be successfully brought out of committee, so that the antismuggling pieces of it are, some of them, in the crime bill. We have reformulated the expedited exclusion to be an emergency authority so that we could trigger it when we have a large boat, for instance, or were we to have an emergency. And we are working with Judiciary Committees on both sides—in the House and in the Senate. There is a legislative vehicle for that proposal. So we remain optimistic that it will be enacted soon.

Chairman BYRD. So the administration does support the language?

Ms. MEISSNER. We support the idea, yes.

Chairman BYRD. How important is it to have congressional action this year?

Ms. MEISSNER. On that set of proposals?

Chairman BYRD. Yes.

Ms. MEISSNER. We think it is very important.

Chairman BYRD. From your vantage point, what do you think the prospects are?

Ms. MEISSNER. We believe that the bill that the chairmen are discussing for this proposal is going to pass some time during this session.

Chairman BYRD. Commissioner Meissner, you are obviously very dedicated to the improvement of INS's record in enforcing our immigration laws, I would say, on a well-thought-out plan. And this committee will do its best to provide the INS with the resources that it will need to successfully carry out its plans in border and interior enforcement, asylum reform, expedited exclusion, automation, and so forth. But that ain't going to be easy.

We do not have but a little money still in the purse, and every day there are efforts from the right and efforts from the left and from the front and from the rear to hack away at discretionary spending. It is a very popular thing to do, to hack away at it. It makes it extremely difficult to deal with major problems confronting the country, this being one.

ADDITIONAL COMMITTEE QUESTIONS

But I think your testimony will be helpful. I appreciate on behalf of my committee your appearance here and the testimony you have given and the work you are performing. We will stay in close touch with you and your staff in the coming weeks. We will provide you with questions for the record from Senators Domenici and Inouye and possibly other Senators, including myself.

Do you have anything finally that you wish to say?

Ms. MEISSNER. Yes; I do, Mr. Chairman. I want to tell you that I very much appreciate personally, and on behalf of the Immigration Service and the administration, this hearing and the time and effort that you have put into this issue. I know that your staff has worked diligently and very hard with our staff in preparation, and I know that you yourself have invested a lot of time in trying to come to grips with an issue that is, we recognize, a complex issue

and one which has some deep contradictions built into it inherently.

So I am grateful for your time and attention, and thank you very much for the reassurance that you have given that you will take seriously what it is that we are proposing. We believe that we have a solid, serious program that can be effective if we can simply move with it.

Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY CHAIRMAN ROBERT C. BYRD

"SAVE" PROGRAM

Commissioner, there have been a number of complaints from the states that the Systematic Alien Verification for Entitlement (SAVE) program is not cost-effective and the response of the system is not timely.

1) Is this system a priority with INS?

ANSWER: The system is a priority with INS. Recently, INS has taken actions to expand the size of the data base as well as to improve and reduce data input times. After July 1, the system will contain an additional 21 million records and data input processing times will be reduced from an average of 45 days to 15 days. This will improve the overall responsiveness of the system and make it more cost effective to use.

2) Are you working with the Department of Health and Human Services to make that system more effective?

ANSWER: As with all the agencies who work with the system, we have ongoing contacts at the working level for administering the system. Recent actions we have taken will considerably improve the responsiveness of the system. Additionally, we are working carefully with Federal agencies to insure that personnel are adequately trained in the proper use of the system so as to reduce unnecessary or duplicate inquiries. This will make use of the system more cost effective.

3) How much has been collected in fees for this system, by year, since its inception? What was the fee per inquiry for each of those same years?

ANSWER: The User Agencies are billed by Martin Marietta Information Systems, the contractor which has the responsibility of housing and maintaining the Alien Status Verification Index (ASVI) database. The cost of access to the INS network varies by state, depending upon the number of user sites, the number of terminals desired and access methods. There are seven access methods with a transaction cost that varies from a fraction of a cent to \$.79 per query. The information regarding the expenditures to the user agencies for accessing ASVI is not available at this time; however, we have requested the generation of the information and will provide it upon receipt.

4) What steps are being taken by INS to monitor this system and to upgrade the data available?

ANSWER: A database upgrade project is underway to reduce the data input processes to 15 days or less and increase the data quality. Also, we are analyzing the data base messages and logic in an attempt to make the primary system more comprehensive and to reduce the incidence of queries being referred for secondary verification.

5) The State of New York has applied for a waiver from participation in the SAVE program on three occasions. Two have been turned down, and the third is pending with the Department of Health and Human Services. According to data from INS, New York made only 615 inquiries of the SAVE system on AFDC, Medicaid and Food Stamps in 1993. Because the law requires verification of alien status on certain federal entitlement programs, until such time as a waiver is granted, shouldn't states be required to participate?

ANSWER: In May 1993, the Department of Agriculture granted the State of New York Program a waiver from using SAVE because participation was not cost-effective. The New York Department of Social Services also requested a waiver for the AFDC and Medicaid Programs which was denied. They have been directed to either perform a study or implement SAVE.

6) The attached letter to the State of New York from the Department of Health and Human Services makes reference to proposed legislation to make participation in the SAVE system optional. Are you aware of this proposal by HHS? What impact would adoption of such a proposal have on the SAVE program?

ANSWER: We understand through conversations with the other agencies that HHS contemplated seeking legislation for this purpose. However, no legislation has been introduced at this time. The adoption of such of a proposal would probably encourage states not to use the system as extensively as they do now. As you know, not every program in every state currently uses SAVE.

7) What needs to be done to do a better job of providing information to the states in a timely manner at a more cost-effective basis.

ANSWER: The data base upgrade initiatives that we are undertaking will result in the information getting to ASVI more expeditiously and decrease the secondary referrals. Access charges to the SAVE automated data base are a minor cost in the processing of a query. The main cost is in personnel time required to do the query, and the time and preparation of paperwork required to complete a secondary referral should that be necessary.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

SMUGGLED CHINESE ALIENS

1. In assessing sites for detention facilities, INS cites the following factors: a) rate of apprehension; b) cost of detention; c) availability of support services; d) transportation; and f) availability of people competent to represent detainees. In comparing Washington D.C. area and the New Orleans area using these standards, please elaborate on the following:

a) Has the rate of apprehension in the new Orleans area been sustained for a longer period of time than the rate in the Washington D.C. area? Given the close proximity of the Washington area to New York, where allegedly many of the Chinese aliens are destined to work and the number of Chinese who have been detained here just in the past two years, there seems to be an increased rate of apprehension in this area which should warrant a reexamination of having an INS facility here.

ANSWER: In the past year the majority of the Chinese being smuggled into the United States have come from the Dominican Republic through Puerto Rico. INS has a small Service Processing Center in Aguadilla, Puerto Rico in which they can be given health care screening and processed for removal from the United States. This facility is not designed for long term detention. Therefore, they are transferred to the Orleans Parish Jail located in New Orleans, Louisiana, which is equipped and staffed to care for long term detainees. Support services such as interpreters are also readily available in that area. The last known vessel to land on the East Coast was the Golden Venture in June of 1993. However, 63 PRCs were apprehended in Mitchellville, Maryland in April 5, 1994 after being disembarked from a smuggling vessel in the Virginia/Maryland area. Compared with other INS districts the

Washington and Baltimore districts do not have high levels of annual apprehensions of illegal aliens.

b) What does the INS pay for each detainee at the LA Parish jail as compared to Wicomico? What is the cost to the Wicomico and the LA Parish jail to house each detainee per day: According to Thomas Hogan, warden of the York County Jail where some of the Chinese detainees are being held, INS pays the jail \$45 a day to house each detainee even though it only cost the county \$28 a day, thereby earning the county \$2 million dollars a year. It appears that housing an INS detainee can be a very profitable venture for a county jail. Has the INS made a recent assessment of the cost associated with housing all the detainees apprehended in the Washington D.C. area and transported to distant county jails such as New Orleans or Denver? Would the INS be better served to use this money to build a bigger INS facility in the Washington D.C. area?

ANSWER: The INS is always looking for cost effective bed space to house aliens in general. Therefore, INS uses a variety of facilities to detain aliens. These include INS owned and operated Service Processing Centers, contract facilities, and local jails which have agreed to house INS detainees at a fixed rate. The rate depends a great deal on the availability of beds in a given area. It is more cost effective to mix the types of facilities used, since contracted local jails or facilities do not add to the federal payroll. Prisoner beds in the northeast corridor of the United States are, generally, at a very high premium, simply because to the supply and demand principle. Wicomico County Jail has agreed to a daily cost of \$50.00-\$58.00 per detainee depending on the level of use. INS has 130 beds available for its use. The Orleans Parish Jail, on the other hand, charges \$46.00 per day and has 800 beds available for INS use. INS does not own a detention facility in the Washington area. Building a new facility is a long process requiring significant appropriation of funds, to be authorized by Congress.

c) What does "availability of support services" mean and how does this factor argue in favor of the LA Parish jail in New Orleans versus Wicomico or a proposed INS facility in the Washington area?

ANSWER: The term "availability of support services" factors in several items. Most smuggled Chinese aliens only speak the Chinese language so interpreters must be used to communicate with them. The Orleans Parish Jail contracts with a local company that employs doctoral candidates from Tulane University, in New Orleans, Louisiana, who are of Chinese descent and speak the language fluently. These interpreters are available 24 hours a day and are used for medical screening, booking, sick call, and explaining immigration procedures. Unfortunately, interpreters are not so readily available near the Wicomico County jail. Further, the jointly operated BOP/INS detention facility in Oakdale, Louisiana has Public Health Service (PHS) health care staff available to follow up on any unusual medical problems that may arise with the aliens detained in the Orleans Parish Jail.

d) In explaining why detainees could not be moved to the INS facility in Winchester, INS stated that they contracted for 50 bed spaces for male detainees there whereas it contracted for 800 spaces in New Orleans. Why is the contract for so many fewer spaces in this area than in the New Orleans area? Why does INS have to contract for beds at its own facility at Winchester: What is the overall space available at Wicomico, Winchester and the LA Parish jail?

ANSWER: The Clarke-Frederick-Winchester-Regional Adult Detention Center located in Frederick County, Virginia is a local institution

for the use of several Virginia Counties and is presided over by a Detention Board. The U.S. Marshal's Service contracts with the facility for bed space and the INS is part of that contract. There is no specified number of beds mentioned in the contract, just what is available at the time space is needed, usually between 50-85. The administrator of the Orleans Parish Jail has agreed to make 800 bed spaces available to INS. Wicomico makes 130 beds available for INS use.

e) I understand that the detainees were transported by chartered plane from Wicomico to the New Orleans LA Parish jail in several groups. How many trips were made to New Orleans to make this transfer and how much did the transportation cost (plane, fuel, manpower)? What about the transfer to other locations: Given that there have been at least two sets of a large group of Chinese nationals apprehended in this area (the Golden Venture and the Mitchellville groups, wouldn't it be better in terms of "economy and ease of transportation" if they were to remain in the Washington D.C. area, whether at Wicomico, Winchester or a proposed new and larger INS facility?

ANSWER: Initially, the smuggled Chinese aliens from the Golden Venture were held in nearby facilities to complete the investigation, gather intelligence information, and begin the prosecution of the principals. Some are still being held in the states of New York, Pennsylvania, and Virginia. The INS identified a large amount of space in the state of Louisiana to concentrate smuggled Chinese aliens, largely because, of the availability of support services, securing the benefits derived from centralization, and the lower long-term cost to INS. Whenever possible INS uses its own aircraft to transport over long distances. However, if INS aircraft are not available, it is more cost effective to charter aircraft as opposed to paying for expensive long-term detention. There was one charter flight used to transport some of the smuggled Chinese aliens from Wicomico to Orleans Parish Jail. This was in conjunction with the transfer of an other group of Chinese nationals from Puerto Rico the same day. Total cost for the mission which includes the Puerto Rico and Wicomico legs of the trip was \$44,000.00. The remainder were transported by INS buses for about \$7500.00 and by INS aircraft for \$18,000.00.

f) There is greater availability of people competent to represent detainees in the Washington D.C. area than in the New Orleans area. Can you elaborate on how many of the transferred detainees in New Orleans have been able to obtain legal counsel and provide the same information about the Golden Venture detainees who were transferred out of this area last year despite the requests of several local organizations for them to remain in this area, where legal counsel was available for them. How many of the transferred detainees are in deportation proceedings and how many of them have been or will be deported?

ANSWER: All detainees in INS custody are advised of their right to counsel at no expense to the government and are given a list of local pro bono attorneys and organizations authorized to practice before the INS. All smuggled Chinese aliens from the Golden Venture in the Orleans Parish Jail are represented by counsel. All have been placed in deportation proceedings. There is a total of 37 with final orders of deportation, however, no one has been deported. Arrangements are being made for their removal from the United States.

2) Which factor has prevented INS from having an adequate INS facility in the Washington D.C. area? What will persuade INS that an adequate facility in the D.C. area is necessary to allow detainees such as the Chinese nationals from the Golden Venture

boat and the Mitchellville home to be afforded a realistic possibility of exercising their rights to legal counsel?

ANSWER: As mentioned in an earlier answer, INS is constantly assessing sites for detention facilities, including the Washington, D.C. area. The building of INS facilities is demand-driven but not on the basis of apprehensions in a specific location. Generally, illegal alien populations shift around the country in response to INS' enforcement efforts. Therefore, apprehension rates are not reliable as the principal criterion upon which to determine the location of a detention facility. Location is determined after consulting many factors, only one of which is the apprehension rate in a particular area, and then only when a rate of apprehension has been sustained over a substantial period of time. More important factors are such items as: cost of detention, availability of support services, overall space available, economy and ease of transportation, and availability of people competent to represent detainees. Community acceptance of a detention facility is also considered, as community opposition is delayed if not cancelled plans for detention facilities in the past.

3) Given that the lawyer's Committee for Human Rights, the D.C. Mayor's office of Asian and Pacific Islander Affairs and several national Asian Pacific American organizations such as the Organization of Chinese Americans and the Japanese American Citizens League and the National Asian Pacific American Legal Consortium called to urge Mr. O'Malley to allow the Asian Pacific American Bar Association (APABA) representatives to make a humanitarian visit that weekend of April 9th, what other type of documentation would have satisfied the INS officials in Baltimore that APABA was not security risk to the detainees?

ANSWER: All requests from individuals, special interest groups, and organizations to visit detained aliens are reviewed on an individual basis. Many factors have to be considered such as security risk, other agency involvement, continuing investigation, possible disruption to the facility, credentials of the requester, to name just a few. Once an assessment of the situation is completed a decision will be made. APABA representatives were allowed to meet with Wicomico detainees in April.

4) What is the INS policy regarding physical examinations of detainees?

ANSWER: INS, through an interagency agreement with the Public Health Service provides health care services to aliens detained in INS operated Service Processing Centers (SPCs). Known as the INS Health Care Program (HCP), formal policies and procedures were developed (based on the National Commission for Correctional Health Care Standards for Health Services in Jails and the American Correctional Association Standards for Adult Local Detention Facilities) and implemented in all INS HCP medical facilities. These policies require the following relating to the screening, health assessment and physical examination of detainees:

- a) Screening: In-take health screening is performed on all detainees upon their arrival at an SPC, in most cases by trained detention staff. Screening is reviewed by INS HCP staff and immediate medical attention is provided when necessary. Additionally, within the first 24-72 hours, all detainees are screened by INS HCP staff for tuberculosis.
- b) Health Assessment and Physical Examination: This is performed on all detainees no later than 14 days after arrival at the SPC. It includes mental health and dental screening as well as laboratory tests for sexually

transmitted disease, and for females, pregnancy and other tests as indicated.

5) To alleviate the problem of not having an interpreter at the jail, would it be possible for INS to translate the pro bono lawyer list into Chinese (and other major Asian languages) and distribute a statement in Chinese providing the details of phone privileges at the jail and instructions on how to make a collect call in the U.S.? If funding is not available to do this, APABA may be able to assist in locating volunteers who would do the translation.

ANSWER: Shortly after arrival at the Orleans Parish Jail in June of 1993 the New Orleans District Office of INS contracted to have the pro bono list of attorneys and organizations translated into Chinese characters. This translation was given to each detained alien and a copy prominently displayed in the detainee's living quarters near the telephone. Further, instructions on the use of the telephone are given by the contract interpreters.

6) Would you provide me with the names, titles and telephone numbers of the INS "chain of command" responsible for detainees at the Wicomico County Jail? How many INS personnel are assigned to be on site at the jail and whom do they take directions from (i.e., the jail warden or INS)? This would help clarify the confusion of who has authority to deal with the detainees at the jail and would allow us to follow the correct channels in the future.

ANSWER: In addition to the mandays of detention paid to the Wicomico County Jail, administrative space is rented for ten INS personnel on the site. The detention facility is managed by county personnel who establish the rules for detainees and set the parameters for visitation, etc. INS personnel administer the immigration aspects of each case and take direction from the Assistant District Director for Detention and Deportation in the Baltimore District.

The Wicomico County Jail is located in the Baltimore, Maryland district of the INS. The INS officials in charge of the district are the District Director, Carol Chasse, 410-962-2010; Deputy District Director, L.D. Crocetti, 410-962-2010; and the Assistant District Director for Detention and Deportation, John F. O'Malley, 410-962-2037. The on site officials located at the Wicomico County Jail are R.M. Iverson, Supervisory Detention and Deportation Officer, 410-548-4046; and Nancy L. Goodson, Supervisory Detention Enforcement Officer, 410-548-4046. Assistant District Director O'Malley should be the initial point of contact and may be reached at the above number or 410-752-4825 24 hours a day. In addition, the Department of Justice, Office of Legislative Affairs and the INS Congressional Relations Office are always available as points of contact for any congressional concerns.

QUESTION SUBMITTED BY SENATOR MARK O. HATFIELD TO DORIS MEISSNER

- 1) Commissioner Meissner, it is my understanding that INS is facing at least a \$50 million shortfall in the examinations fee account which finances a range of functions including the overseas circuit rider program that is so critical to the processing of refugee applications around the world. I understand that your office has been in contact with the Office of Refugee Resettlement (ORR) to discuss a reprogramming of ORR funds to cover some of the costs of the circuit rider program. Can you update the Committee as to the status of these discussions and any other options you are considering to assure that refugee admissions and

domestic refugee resettlement will not be adversely affected? Are plans in place to use fourth quarter money effectively if it can be found in the days ahead?

[CLERK'S NOTE.—The answer to the question will be retained in the committee files when received.]

QUESTIONS SUBMITTED BY SENATOR ALFONSE M. D'AMATO

- 1 Can you provide us with some added detail into the connection between illegal Chinese immigration and the Asian Drug gangs?
- 2 What suggestions would you make to improve the visa lookout system as well as any other recommended changes to the screening system so as to improve our ability to keep terrorists and criminals from coming into our country?
- 3 Can you give us your views on the abuses of the political asylum claims system and how you have changed it and what further plans you have?
- 4 Describe if you can, the immigration caseload, and how more INS agents could lighten that load and speed up the system?
- 5 If immigration judges were required to submit performance plans, would the implementation of these plans speed up the asylum hearing system? If not, what would you suggest?
- 6 With the closing of selected military bases, would converting them into detention centers help matters any?
- 7 Will INS agents be pulled out of the Organized Crime Drug Enforcement Taskforce (OCDETF) reporting structure and forced to report back to their district directors, and for what reason is this being done?

[CLERK'S NOTE.—The answers to the questions will be retained in the committee files when received.]

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

BORDER PATROL ENHANCEMENTS

For 1995, the Administration is requesting an increase of \$10.1 million for 150 new Border Patrol agents. The House Appropriations Committee has recommended an additional \$54.5 million for 700 new Border Patrol agents.

- 1) Do you Support the House initiative?

ANSWER: INS supports whatever the final level of resources may be as agreed upon by Congress and the Administration. It is important to consider the need to deliver the appropriate mix of agents, equipment, support staff, and technology to the right locations in a timely manner.

- 2) Whatever level of new agents is ultimately approved by the Congress, do you agree with Senator Deconcini and me that we need to commit a portion of these new agents to Arizona and Western New Mexico to stem the increased activity in those areas?

ANSWER: INS prefers to use a systematic, phased, multi-year approach to staffing which concentrates resources first in the areas of greatest illegal entry traffic. Sufficient resources in other areas to hold the line, while strengthening control in the areas of greatest illegal entry. It is still too early in the planning process to make a commitment of resources to a specific part of the country.

CONCLUSION OF HEARING

Chairman BYRD. My staff has been very complimentary of you and your staff. Thank you very much for your testimony.

The committee will stand in recess.

[Whereupon, at 5:55 p.m., Wednesday, June 22, the hearing was concluded, and the committee was recessed, to reconvene subject to the call of the Chair.]

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